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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY K. GOMEZ,

1:04-cv-05495-LJO-GSA-PC

Plaintiff,

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 48.)

vs.

EDWARD S. ALAMEIDA, JR.,
et al.,

ORDER FOR THIS CASE TO PROCEED
ON THE FOURTH AMENDED COMPLAINT
AGAINST DEFENDANT D. D. ORTIZ FOR
RETALIATION, AND DISMISSING ALL
OTHER CLAIMS AND DEFENDANTS
WITHOUT LEAVE TO AMEND

Defendants.

_____ /

Jeffrey K. Gomez ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 16, 2010, [findings and recommendations](#) were entered, recommending that this action proceed on the Fourth Amended Complaint against only Defendant D. D. Ortiz on Plaintiff's claim for retaliation, and that all other claims and defendants be dismissed without leave to amend. (Doc. 48.) On February 11, 2011, Plaintiff filed [objections](#) to the findings and recommendations. (Doc. 51.) Together with the objections, Plaintiff brings a motion for counsel, a motion for in camera review, and a motion for recusal. *Id.*

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, including

1 Plaintiff's objections, the Court finds the findings and recommendations to be supported by the
2 record and proper analysis. Plaintiff's motion for counsel, motion for in camera review, and motion
3 for recusal shall be referred back to the Magistrate Judge.

4 Accordingly, THE COURT HEREBY ORDERS that:

- 5 1. The Findings and Recommendations issued by the Magistrate Judge on November 16,
6 2010, are ADOPTED in full;
- 7 2. This action now proceeds on Plaintiff's Fourth Amended Complaint, filed on August
8 14, 2009, against only Defendant D. D. Ortiz on Plaintiff's claim for retaliation;
- 9 3. All remaining claims and defendants are DISMISSED from this action without leave
10 to amend;
- 11 4. Plaintiff's claims arising from events occurring at San Quentin State Prison and
12 Salinas Valley State Prison are DISMISSED from this action for lack of venue;
- 13 5. Plaintiff's ADA claims are DISMISSED from this action under Rule 18, without
14 prejudice to raising those claims in a separate action;
- 15 6. Plaintiff's claims arising from events occurring after March 29, 2004, are
16 DISMISSED from this action;
- 17 7. Plaintiff's due process claims, supervisory liability claims, claims against defendants
18 in their official capacities, claims for inadequate appeals process, equal protection
19 claims, claims for failure to protect, and claims for declaratory and injunctive relief
20 are DISMISSED from this action based on Plaintiff's failure to state a claim upon
21 which relief may be granted;
- 22 8. All other named defendants and the twenty Doe defendants are DISMISSED from
23 this action for Plaintiff's failure to state a claim upon which relief may be granted
24 against them;
- 25 9. This action is REFERRED back to the Magistrate Judge for further proceedings,
26 including service of process; and

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10. Plaintiff's motion for counsel, motion for in camera review, and motion for recusal, filed on February 11, 2011 along with Plaintiff's objections to the findings and recommendations, are REFERRED back to the Magistrate Judge.

IT IS SO ORDERED.

Dated: February 24, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE