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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONALD GLASS,

Plaintiff,

v.

A. K. SCRIBNER, et al.,

Defendants.

CASE NO. 1:04-cv-05953 AWI DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND GRANTING IN
PART AND DENYING IN PART
DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT

(Doc. 394, #141, #144, & #154)

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Plaintiff Donald Glass, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 72-302.

On August 19, 2009, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within thirty days. The parties have not filed timely objections to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed August 19, 2009, is adopted in full;
2. Defendants' motion for summary judgment, filed December 27, 2006, is GRANTED

1 IN PART and DENIED IN PART as follows:

2 a. Defendant Tracy is granted summary judgment on the excessive force claim
3 against him arising from the April 17, 2002 cell extraction;

4 b. Defendants are granted summary judgment on Plaintiff's retaliation claim
5 concerning the April 17, 2002 cell extraction;

6 c. Defendant Lawton is granted summary judgment on the excessive force claim
7 against him arising from the May 5, 2002 use of force incident;

8 d. Defendants are granted summary judgment on Plaintiff's denial of access to
9 the courts claim;

10 e. Defendants are granted summary judgment on Plaintiff's retaliation claim
11 concerning his initial placement on strip cell status from April 18, 2002 to
12 April 28, 2002, and his continued placement from May 13, 2002 to May 24,
13 2002;

14 f. Defendants are granted summary judgment on Plaintiff's claim for damages
15 against Defendants in their official capacities;

16 g. The remainder of Defendants' motion for summary judgment is denied;

17 3. This matter shall be set for trial; and

18 4. The pending motions concerning additional time to file briefs regarding the motion
19 for summary judgment are DENIED as moot (#141 & #144).

20
21 IT IS SO ORDERED.

22 **Dated: September 23, 2009**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE