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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAMAVIS A. COMUNDOIWILLA,

Plaintiff,

v.

M.S. EVANS, et al.,

Defendants.

CASE NO. 1:04-cv-06721-LJO-SKO PC

FINDINGS AND RECOMMENDATIONS

OBJECTIONS DUE WITHIN 30 DAYS

Plaintiff Lamavis A. Comundoiwilla (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On February 23, 2010, the Court issued an order finding that Plaintiff’s second amended complaint stated some cognizable claims against certain Defendants. (Doc. #23.) The Court noted that Plaintiff failed to state any other claims against any other Defendants. The Court ordered Plaintiff either to file an amended complaint or to notify the Court that he wished to proceed only on the claims found to be cognizable. On March 22, 2010, Plaintiff notified the Court that he wishes to proceed only on the claims found to be cognizable.¹ Based on Plaintiff’s notice, these Findings and Recommendations now issue. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing for failure to state a claim).

Accordingly, it is HEREBY RECOMMENDED that:

¹In Plaintiff’s notice, Plaintiff also expressed an intent to amend his complaint later pursuant to Federal Rule of Civil Procedure 15 to state claims against Defendant Liles. The Court will refrain from addressing the issue of whether Plaintiff’s prospective amendment is appropriate until Plaintiff files his motion to amend.

- 1 1. Plaintiff’s First Amendment claims, Fourteenth Amendment due process claims, and
2 RLUIPA² claims against Defendant Liles be dismissed; and
3 2. Defendant Liles be dismissed from this action.

4 These Findings and Recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30)
6 days after being served with these Findings and Recommendations, any party may file written
7 objections with the Court and serve a copy on all parties. Such a document should be captioned
8 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
9 shall be served and filed within ten (10) days after service of the objections. The parties are advised
10 that failure to file objections within the specified time may waive the right to appeal the District
11 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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13 IT IS SO ORDERED.

14 **Dated:** April 26, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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²Religious Land Use and Institutionalized Persons Act of 2000