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

ROBERT ROGERS,)	1:05 cv 00569 AWI YNP GSA (PC)
)	
Plaintiff,)	ORDER RE: FINDINGS & RECOMMENDATIONS
)	
v.)	
)	ORDER DISMISSING EIGHTH AMENDMENT CLAIM AND CLAIM BASED ON THE CALIFORNIA PENAL CODE
A. K. SCRIBNER, et al.,)	
)	
Defendants.)	
)	Document # 12

Plaintiff is a state prisoner proceeding pro se in this civil rights action. 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 July 28, 2009, [findings and recommendations](#) were entered, recommending dismissal of Plaintiff's Eighth Amendment claim and claim for violation of the California Penal Code. Plaintiff was provided an opportunity to file objections within thirty days. Plaintiff has not filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73-305, 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 proper analysis.

1 Accordingly, THE COURT HEREBY ORDERS that:

- 2 1. The Findings and Recommendations issued by the Magistrate Judge on July 28,
3 2009, are adopted in full;
- 4 2. Plaintiff's Eighth Amendment claim and claim for violation of the California
5 Penal Code are DISMISSED; and
- 6 3. This action is referred to the Magistrate Judge for further proceedings.

7
8 IT IS SO ORDERED.

9 **Dated: October 4, 2009**

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