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

JOSE ANTONIO MARTINEZ,

1:05-cv-00961-LJO-GSA-PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

vs.

(Doc. 21.)

J. EBENAL, et al.,

ORDER FOR THIS ACTION TO PROCEED
ONLY AGAINST DEFENDANTS EBENAL AND
ACKERMAN ON PLAINTIFF'S FIRST
AMENDMENT CLAIM, AND DISMISSING ALL
REMAINING CLAIMS AND DEFENDANTS

Defendants.

ORDER FOR CLERK TO UPDATE THE DOCKET

_____ /

Jose Antonio Ebenal (“plaintiff”) is a state prisoner proceeding pro se in 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 72-302.

On November 18, 2008, findings and recommendations were entered, recommending that this action proceed only against defendants Ebenal and Ackerman on plaintiff's First Amendment claim, and that all remaining claims and defendants be dismissed. Plaintiff was provided an opportunity to file objections to the findings and recommendations within thirty days. To date, plaintiff has not filed objections or otherwise responded to the findings and recommendations.

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 73-
2 305, this court has conducted a de novo review of this case. Having carefully reviewed the entire
3 file, the court finds the findings and recommendations to be supported by the record and proper
4 analysis.

5 Accordingly, THE COURT HEREBY ORDERS that:

- 6 1. The Findings and Recommendations issued by the Magistrate Judge on
7 November 18, 2008, are adopted in full;
- 8 2. This action now proceeds only against defendants Correctional Officer J.
9 Ebenal and Sergeant L. Ackerman for violation of plaintiff's First Amendment
10 rights regarding outgoing mail;
- 11 3. All remaining claims and defendants are dismissed from this action;
- 12 4. Plaintiff's claim for denial of access to the courts is dismissed from this action
13 based on plaintiff's failure to state a claim upon which relief may be granted
14 under § 1983;
- 15 5. Defendants W. J. Sullivan and Jeanne Woodford are dismissed for plaintiff's
16 failure to state any claim against them in the amended complaint; and
- 17 6. The Clerk of Court is directed to reflect dismissal of defendants W. J. Sullivan
18 and Jeanne Woodford from this action on the court's docket.

19 IT IS SO ORDERED.

20 **Dated: January 12, 2009**

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

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