



1 written notification to the court that he is willing to proceed only on the claims found cognizable by the  
2 court in the amended complaint. (Doc. 22.)

3 Based on the foregoing, it is HEREBY ORDERED that:

- 4 1. This action now proceeds only against defendants MTA Harbinson, Dr. McIntyre, Dr.  
5 Weed and Dr. Sweetland for denial of inadequate medical care under the Eighth  
6 Amendment, and for medical malpractice under state law;
- 7 2. All remaining claims and defendants are DISMISSED from this action;
- 8 3. Plaintiff's claims against defendants Avenal State Prison, Greenough, Smith, and Grazier  
9 are DISMISSED from this action for plaintiff's failure to state a claim upon which relief  
10 may be granted against them;
- 11 4. Plaintiff's Due Process and retaliation claims are DISMISSED from this action for  
12 plaintiff's failure to state a claim upon which relief may be granted under section 1983;  
13 and
- 14 5. The Clerk is DIRECTED to reflect on the court's docket the dismissal of defendants  
15 Avenal State Prison, Greenough, Smith, and Grazier.

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17 IT IS SO ORDERED.

18 **Dated: January 12, 2009**

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE

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