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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILL MOSES PALMER, III,

Plaintiff,

v.

JEANNE WOODFORD, et al.,

Defendants.

CASE NO. 1:06-cv-00512-LJO-SMS PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSING CERTAIN
CLAIMS AND DEFENDANTS

(ECF Nos. 64, 65, 68)

OBJECTIONS DUE WITHIN THIRTY DAYS

_____/

Plaintiff Will Moses, Palmer, III (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On August 5, 2011, an order issued granting Plaintiff’s motion for reconsideration of the order finding Plaintiff was subject to 28 U.S.C. § 1915(g) and dismissing the action. (ECF No. 65.) This action was reinstated, the first amended complaint was rescreened and Plaintiff was directed to file an amended complaint or notify the Court which of the claims found to be cognizable he wished to proceed on in this action. On September 21, 2011, Plaintiff filed a response informing the Court that he wishes to proceed on the retaliation and denial of access to the court claim. (ECF No. 68.)

Based upon the findings in the order filed August 22, 2011, and Plaintiff’s notice, filed September 21, 2011, it is HEREBY RECOMMENDED that:

1. This action shall proceed on the first amended complaint, filed August 29, 2007, against Defendants Jordnt and Bardonnex for retaliation and denial of access to the court in violation of the First Amendment for damages;

1 2. Defendants Jordnt and Bardonnex be ordered to file a responsive pleading within
2 thirty days;

3 3. All remaining claims and Defendants be dismissed from this action, without
4 prejudice; and

5 4. Defendant Tarter’s motion to dismiss, filed October 8, 2009, be DENIED as moot.

6 These findings and recommendations will be submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30)
8 days after being served with these findings and recommendations, Plaintiff may file written
9 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
10 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the
11 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
12 1153 (9th Cir. 1991).

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15 IT IS SO ORDERED.

16 **Dated:** October 11, 2011

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE