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

MARCIAL PLATA,

Plaintiff,

vs.

WOODFORD, et al.,

Defendants.

1:06-cv-01023-LJO-GSA-PC

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 40.)

ORDER FOR THIS ACTION TO PROCEED
ONLY AGAINST DEFENDANTS WATSON,
CORONA, AND JOHN/JANE DOE #6, ON
PLAINTIFF'S CLAIMS FOR RETALIATION
AND FAILURE TO PROTECT

ORDER DISMISSING REMAINING CLAIMS
AND DEFENDANTS FOR FAILURE TO
STATE A CLAIM

_____ /

Marcial Plata ("Plaintiff") is a prisoner proceeding pro se and in forma pauperis with 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 302.

On October 15, 2010, findings and recommendations were entered, recommending that this action proceed only against defendants Watson, Corona, and John/Jane Doe #6, on Plaintiff's claims for retaliation -- for two instances of retaliation on October 12, 2003 and December 19, 2003 -- and Plaintiff's claims for failure to protect Plaintiff, and that all remaining claims and defendants be dismissed based on Plaintiff's failure to state a claim. (Doc. 40.) Plaintiff was

1 provided an opportunity to file objections to the findings and recommendations within thirty days.
2 To date, Plaintiff has not filed objections or otherwise responded to the findings and
3 recommendations.

4 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304,
5 this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the
6 court finds the findings and recommendations to be supported by the record and proper analysis.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The Findings and Recommendations issued by the Magistrate Judge on
9 October 15, 2010, are adopted in full;
- 10 2. This action now proceeds with Plaintiff's First Amended Complaint, filed on
11 December 10, 2008, only against defendants Correctional Officer ("C/O") D.
12 Watson, C/O E. Corona, and John/Jane Doe #6 for two instances of retaliation
13 -- on October 12, 2003 and December 19, 2003 – in violation of the First
14 Amendment, and for failure to protect Plaintiff, in violation of the Eighth
15 Amendment;
- 16 3. All remaining claims and defendants are dismissed from this action;
- 17 4. Plaintiff's due process claims, claims for an inadequate inmate appeals
18 process, supervisory liability claims, and claims for failure to properly train
19 and supervise are dismissed for failure to state a claim upon which relief may
20 be granted under § 1983; and
- 21 5. Defendants California Department of Corrections Director Jeanne S.
22 Woodford, PVSP Warden James A. Yates, Chief Deputy Warden A. Malfi,
23 Associate Warden B. J. Hill, Associate Warden W. J. Juarez, Captain V. J.
24 Quinn-Robicheaux, Lieutenant K. R. Nash, Lieutenant V. Ramirez, Lieutenant
25 J. C. Smith, Sergeant B. Cramer, Sergeant B. Torres, C/O R. Juarez, C/O J.
26 Duty, C/O J. Lopez, C/O Silva, C/O Pasillas, C/O Guerra, C/O Walker, C/O
27 Espino, C/O D. Gonzales, C/O K. Session, C/O P. Sanchez, John/Jane Does

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#1-5, and John/Jane Does #7-35 are dismissed from this action based on Plaintiff's failure to state any claims upon which relief may be granted against them under § 1983; and

6. The Clerk is directed to reflect the dismissal of all defendants except Watson, Corona, and John/Jane Doe #6 from this action on the Court's docket.

IT IS SO ORDERED.

Dated: December 2, 2010

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