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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ROYCE KEVIN HOUSTON,	CASE NO. 1:06-cv-01318-AWI-WMW PC
Plaintiff,	FINDINGS AND RECOMMENDATIONS
v.	
A. SCHWARZENEGGER, et al.,	
Defendants.	

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On January 23, 2009, the Court issued an order finding that Plaintiff's November 17, 2006, amended complaint states cognizable claims against Defendant Rosenthal for a violation of the First Amendment, but does not state a cognizable claim against any of the remaining Defendant. The Court ordered Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on the claims found to be cognizable. On March 2, 2009, Plaintiff notified the Court that he does not wish to amend and is willing to proceed on the claims found cognizable. Based on Plaintiff's notice, this Findings and Recommendations now issues. See Noll v. Carlson, 809 F. 2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing for failure to state a claim).

Accordingly, it is HEREBY RECOMMENDED that:

1. The following claims be dismissed: Supervisory liability; claims against appeals reviewers; 14th Amendment Due Process; 8th Amendment; 6th Amendment; claims

1 pursuant to 42 U.S.C. §§ 1985, 1985; claims for prospective relief.

2 2. Defendants A. Schwarzenegger, J. Woodford, A. K. Scribner, Derral Adams; Lonnie
3 Watson, Lydia Hense, C. Gardenal, D. Ortiz, V. Yamamoto, D. Sheppard-Brooks, J.
4 Jones, Janice Stuter, Ron Rife, G. Goodard, Teresa Bruce, D. Hukill, J. Burleson, and
5 B. Lockyer be dismissed.

6
7 3. Defendant XXXXX be dismissed based on Plaintiff's failure to state any claims
8 against him.

9 These Findings and Recommendations will be submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30)**
11 **days** after being served with these Findings and Recommendations, plaintiff may file written
12 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
13 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
14 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d
15 1153 (9th Cir. 1991).

16
17 IT IS SO ORDERED.

18 **Dated:** April 3, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE