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

JASON LATRELL THOMAS,

Plaintiff,

1: 06 CV 01332 LJO YNP SMS (PC)

vs.

ORDER RE: FINDINGS &  
RECOMMENDATIONS (#63)

D. SHEPPARD-BROOKS, et al.,

Defendants.

Plaintiff is a state prisoner proceeding pro se in this civil rights action. 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 October 16, 2009, [findings and recommendations](#) were entered, recommending that Defendants’ motion to dismiss be denied in part and granted in part. The parties were provided an opportunity to file objections within thirty days. No objections have been filed.

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

1                   Accordingly, THE COURT HEREBY ORDERS that:

2                   1. The Findings and Recommendations issued by the Magistrate Judge on  
3 October 16, 2009, are adopted in full; and

4                   2. Defendants’ motion to dismiss, filed June 17, 2009, is granted with respect to  
5 Plaintiff’s First Amendment freedom of expression claims, First Amendment retaliation claims,  
6 and Eighth Amendment use of excessive force claims against Defendants Wilber, Vikjord,  
7 Frescura, Price, Castro, and Hernandez.

8                   3. Defendants’ motion to dismiss is denied with respect to Plaintiff’s Eighth  
9 Amendment failure to protect claims against Defendants D. D. Sheppard-Brooks, I. Garza, M.L.  
10 Gonzales, Wilber, and James.

11                   4. This action is remanded to the Magistrate Judge for further proceedings.  
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17 IT IS SO ORDERED.

18 **Dated:** November 19, 2009

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