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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JOHN BAGENT,

Plaintiff,

v.

RICHARD PIERCE, et al.,

Defendants.

CASE NO. 1:06-cv-01842-LJO-SMS PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS IN FULL, AND  
DENYING DEFENDANTS’ MOTION TO  
DISMISS

(Docs. 22 and 34)

ORDER DISMISSING PLAINTIFF’S DUE  
PROCESS CLAIM, WITH LEAVE TO FILE  
SECOND AMENDED COMPLAINT WITHIN  
THIRTY DAYS

(Doc. 9)

Plaintiff John Bagent (“Plaintiff”) is a civil detainee proceeding pro se and in forma pauperis in 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 72-302.

On December 8, 2008, the Magistrate Judge filed a [Findings and Recommendations](#) herein which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within fifteen days. On January 12, 2009, Plaintiff filed an [Objection](#).

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), 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 by proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed December 8, 2008, is adopted in full;
- 3 2. Defendants Mimms and Johnson's motion to dismiss for failure to state a claim and
- 4 motion for a more definite statement, filed June 5, 2008, is DENIED;
- 5 3. Pursuant to the Court's screening authority under 28 U.S.C. § 1915(e)(2)(B)(ii),
- 6 Plaintiff's procedural due process claim is dismissed, with leave to amend, for failure
- 7 to state a claim upon which relief may be granted under section 1983;
- 8 4. Plaintiff has **thirty (30) days** from the date of service of this order within which to
- 9 file a second amended complaint; and
- 10 5. The Clerk's Office shall send Plaintiff a civil rights complaint form.

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12 IT IS SO ORDERED.

13 **Dated: February 2, 2009**

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