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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JUSTIN LOMAKO,

Plaintiff,

v.

PLEASANT VALLEY
STATE PRISON, et al.,

Defendants.

CASE NO. 1:07-cv-00205-OWW-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
CERTAIN CLAIMS AND DEFENDANTS,
AND REFERRING MATTER BACK TO
MAGISTRATE JUDGE

(Docs. 22 and 26)

Plaintiff Justin Lomako, a former state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983 on February 7, 2007. 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 June 23, 2010, the Magistrate Judge screened Plaintiff's fourth amended complaint and recommended that the action proceed against Defendants Maldonado and Leal on Plaintiff's Eighth Amendment claim, and the other claims and defendants be dismissed. Plaintiff was given thirty days within which to file an Objection. The time period has expired and to date, no Objection has been filed.

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 June 23, 2010, is adopted in full;
- 3 2. This action shall proceed on Plaintiff's fourth amended complaint, filed June 30,
- 4 2009, against Defendants Maldonado and Leal for violation of the Eighth
- 5 Amendment;
- 6 3 Plaintiff's First Amendment, equal protection, and due process claims are dismissed,
- 7 with prejudice, for failure to state a claim under section 1983;
- 8 4 All defendants other than Maldonado and Leal are dismissed based on Plaintiff's
- 9 failure to state any claims against them; and
- 10 5. This matter is referred back to the Magistrate Judge for service of process.
- 11

12 IT IS SO ORDERED.

13 Dated: August 6, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE