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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ADEM ADIL ABOBK R,

CASE NO. 1:07-cv-00710-AWI-DLB (PC)

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DISMISSING
ACTION FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF MAY BE GRANTED

v.

M. MILLS, et al.,

(Doc. 15)

Defendants.

Plaintiff Adem Adil Abobkr (“plaintiff”) is a state prisoner proceeding pro se 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 November 17, 2008, the Magistrate Judge filed a [Findings and Recommendations](#) herein which was served on plaintiff and which contained notice to plaintiff that any objection to the Findings and Recommendations was to be filed within thirty days. Plaintiff did not file a timely Objection to the Findings and Recommendations.

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.¹

¹ The court clarifies that Plaintiff must allege the absence of a penological interest to state a claim under the First Amendment. Plaintiff is not required to allege what the prison’s penological interest may be. Here, Plaintiff failed to allege the absence of a penological interest.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The [Findings and Recommendations](#), filed November 17, 2008, is adopted in full;
3 and
4 2. This action is dismissed for failure to state a claim upon which relief may be granted.
5

6 IT IS SO ORDERED.

7 **Dated: February 14, 2009**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE