UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CLARENCE E. HOWARD,

Plaintiff,

v.

W. J. SULLIVAN, et al.,

Defendants.

/

CASE NO. 1:07-cv-00988-OWW-GSA PC

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, AND DISMISSING CERTAIN CLAIMS FROM SECOND AMENDED COMPLAINT

(Docs. 31 and 32)

Plaintiff Clarence E. Howard, a state prisoner, is 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 October 9, 2009, the Magistrate Judge screened Plaintiff's second amended complaint, and issued a Findings and Recommendations recommending dismissal of certain claims. 28 U.S.C. § 1915A. Plaintiff was given thirty days within which to file any objections. Plaintiff filed a timely Objection on October 29, 2009.

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. Plaintiff's Objection provides no basis for declining to adopt the Magistrate Judge's recommendations.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed October 9, 2009, is adopted in full;

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2. This action shall proceed on Plaintiff 's second amended complaint against Defendant Kamel for violation of the Due Process Clause and violation of the Eighth Amendment;

3. Plaintiff's claims for equitable relief and his claim against Defendant Kamel in his official capacity are dismissed for failure to state a claim;

4. Plaintiff's equal protection claim is dismissed, with prejudice, for failure to state a claim; and

5. Plaintiff's state law tort claims are dismissed, without prejudice, for failure to allege compliance with the Tort Claims Act and for failure to state a claim.

IT IS SO ORDERED.

Dated: November 10, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE