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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERNEST MILLER,

CASE NO. 1:07-cv-01416-LJO DLB PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

v.

A.K. SCRIBNER et al.,

(Doc. 41)

Defendants.

Plaintiff Ernest Miller (“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 December 18, 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 filed an [Objection](#) to the Findings and Recommendations on December 30, 2008.

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.

Accordingly, IT IS HEREBY ORDERED that:

1. The [Findings and Recommendations](#), filed December 18, 2008, is adopted in full;
2. This action shall proceed only against defendant Ortize for violation of the Eighth Amendment; and
3. Defendants Scribner, Adams, Mendes, Kibler and Fisher are dismissed with

1 prejudice from this action for plaintiff's failure to state a claim upon which relief may
2 be granted.

3 IT IS SO ORDERED.

4 **Dated: February 4, 2009**

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

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