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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOHNNY EARL EVANS,  
Plaintiff,

CASE NO. 1:07-CV-01814 LJO DLB

vs.

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

S. ZAMORA, et al.,  
Defendants.

[Doc. 10]

Plaintiff Johnny Earl Evans (“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 October 23, 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.

Accordingly, IT IS HEREBY ORDERED that:

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1. The [Findings and Recommendations](#), filed October 23, 2008, is adopted in full;
2. This action proceed only against defendants Zamora and John Doe Chief Medical Officer on plaintiff's Eighth Amendment claims;
3. Plaintiff's claims based on the violation of the California Penal Code be dismissed for failure to state any claims upon which relief may be granted; and
4. Defendants Smith, Patel, Grannis and Tilton be dismissed from this action for failure to state any claims upon which relief may be granted.

IT IS SO ORDERED.

**Dated: January 7, 2009**

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