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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ERNEST MILLER,

Plaintiff,

v.

CALIFORNIA STATE PRISON, et al.,

Defendants.

CASE NO. 1:08-cv-00234-OWW-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DENYING
DEFENDANTS' MOTION TO DISMISS
BROUGHT PURSUANT TO 28 U.S.C. §
1915(G)

(Docs. 48 and 55)

Plaintiff Ernest Miller is a state prisoner 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 May 1, 2009, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within thirty days. The parties have not filed timely objections 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:

- 1. The Findings and Recommendations, filed May 1, 2009, is adopted in full; and

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2. Defendants' motion to dismiss brought pursuant to 28 U.S.C. § 1915(g), filed March 20, 2009, is DENIED.

IT IS SO ORDERED.

Dated: July 6, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE