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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

OSCAR CRUZ,

Plaintiff,

v.

KNOWLES, et al.,

Defendants.

CASE NO. 1:08-cv-00237-LJO-DLB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DISMISSING
CERTAIN CLAIMS

(Doc. 10)

/

Plaintiff Oscar Cruz (“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 16, 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.

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Accordingly, IT IS HEREBY ORDERED that:

1. The [Findings and Recommendations](#), filed December 16, 2008, is adopted in full;
2. Plaintiff's due process claim is dismissed, without leave to amend, for failure to state a claim upon which relief may be granted; and
3. This action shall proceed on Plaintiff's complaint, filed February 19, 2008, against defendants Knowles, Chrones, and Fraunheim on Plaintiff's Equal Protection and Eighth Amendment claims.

IT IS SO ORDERED.

Dated: February 9, 2009

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