

1 instead wishes to proceed only on the claim identified by the Court as viable/cognizable in the Court's
2 order. (Doc. 10.) On July 31, 2009, Plaintiff filed written notice to the Court that he only wishes to
3 proceed on the claim found cognizable by the Court. (Doc. 11.)

4 Based on the foregoing, it is HEREBY ORDERED that:

- 5 1. This action now proceeds only against Defendants correctional officers Terry Brian and
6 Robert Volker, for retaliation in violation of the First Amendment;
- 7 2. All remaining claims are dismissed from this action; and
- 8 3. Plaintiff's claim for Due Process violations under the Fourteenth Amendment is
9 dismissed from this action based on Plaintiff's failure to state a claim upon which relief
10 may be granted under section 1983.

11 IT IS SO ORDERED.

12 **Dated:** August 12, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28