

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

MICHAEL HUDSON,

Plaintiff,

vs.

TERRY BRIAN, et al.,

Defendants.

Case No. 1:08-cv-00249 AWI JLT (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

ORDER DENYING MOTION FOR
SUMMARY JUDGMENT

(Documents #33 & #42)

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a 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) and Local Rule 302(c)(17).

On March 31, 2011, the assigned Magistrate Judge issued Findings and Recommendations that recommended Defendants’ motion for summary judgment be denied. (Doc. 42.) The assigned Magistrate Judge found that there are genuine issues of material fact precluding summary judgment on Plaintiff’s First Amendment retaliation claim, including (1) whether Plaintiff filed a grievance on June 30, 2007 against Defendants regarding the service of cold meals; (2) whether Defendants had knowledge of the alleged grievance; and (3) whether retaliation was the motivating factor for Defendants’ actions. (Id. at 7.) The assigned Magistrate Judge also recommended that Defendants’ January 21, 2011 objections to Plaintiff’s declaration be granted in part and denied in part. (Id. at 8-9.)

1 The Findings and Recommendations contained notice to all the parties that objections, if any,
2 were to be filed within fourteen days of being served with the Findings and Recommendations. As
3 of the date of this order, no objections have been filed.

4 The Court has conducted a de novo review of this case in accordance with 28 U.S.C. §
5 636(b)(1)(c). Having carefully reviewed the entire file in this case, the Court finds the Findings and
6 Recommendations to be supported by the record and proper analysis.

7 Accordingly, **IT IS HEREBY ORDERED** that:

- 8 1. The Magistrate Judge's Findings and Recommendations issued March 31, 2011, are
9 adopted in full;
- 10 2. Defendants' December 1, 2010 motion for summary judgment (Doc. 33) is
11 **DENIED**;
- 12 3. Defendants' January 21, 2010 objections to Plaintiff's declaration (Doc. 37) are
13 **GRANTED IN PART** and **DENIED IN PART**; and
- 14 4. This action is referred to the Magistrate Judge to set a further scheduling conference
15 order.

16 IT IS SO ORDERED.

17 Dated: May 12, 2011

18 
19 _____
20 CHIEF UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28