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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FRED PRICE,

1:08-cv-00425 AWY YNP GSA (PC)

Plaintiff,

FINDINGS AND RECOMMENDATIONS

v.

S. R. CUNNINGHAM, et al.,

Defendants.

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 12, 2008, the Court issued an order finding that Plaintiff's complaint states cognizable claims against Defendants Cunningham and Mullins for violation of the First and Eighth Amendments, but does not state a cognizable Fourteenth Amendment claim. Plaintiff also fails to state any claims against Defendants Gamblin, Hartman, Mack, Large, Sailor, Lynker or Hopkins. The Court ordered Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on the claims found to be cognizable. On March 1, 2010, Plaintiff notified the Court that he does not wish to amend and is willing to proceed on the claims found cognizable. Based on Plaintiff's notice, this Findings and Recommendations now issues. See Noll v. Carlson, 809 F. 2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing for failure to state a claim).

Accordingly, it is HEREBY RECOMMENDED that:

