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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ABDULLAH,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:08-cv-00551 AWI DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DENYING
PLAINTIFF’S MOTION TO REMAND

(Doc. 7)

This is a civil action filed by plaintiff Hanif Salahuddin Abdullah (“plaintiff”), a state prisoner proceeding pro. The action was removed from the Fresno County Superior Court to this Court by defendant Yates on April 17, 2008. Plaintiff filed a motion to remand on May 19, 2008. (Doc. 19). 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 October 30, 2008, the Magistrate Judge filed a [Findings and Recommendations](#) that recommended Plaintiff’s motion to remand this action be denied as the complaint contains both state and federal claims. The Findings and Recommendations were served on the parties and contained notice to the parties that any objections to the Findings and Recommendations were to be filed within twenty days. On November 24, 2008, plaintiff filed an [Objection](#).

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.

1 In his objections, Plaintiff contends that he has the right to ignore his federal claims and
2 pursue only his state claims. As long as the complaint contains federal claims, the removal was
3 allowed under federal law and this action's presence in federal court is proper. See 28 U.S.C. §
4 1441(a). Plaintiff remains free to request the court to dismiss the federal claims pursuant to Rule
5 41 of the Federal Rule of Civil Procedure. Once the court dismisses any federal claims, Plaintiff
6 may then file a motion requesting the court to decline to exercise supplemental jurisdiction and
7 remand this action to state court pursuant to 28 U.S.C. § 1367(c)(3).

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The [Findings and Recommendations](#), filed October 30, 2008, is adopted in full; and
- 10 2. Plaintiff's motion to remand, filed May 19, 2008, is DENIED.

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12 IT IS SO ORDERED.

13 **Dated:** February 14, 2009

14 /s/ Anthony W. Ishii
15 CHIEF UNITED STATES DISTRICT JUDGE
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