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

STEVEN W. ROSE,

Plaintiff,

vs.

STATE OF CALIFORNIA,

Defendant.

Case No. 1:08-cv-00681 LJO JLT (PC)

FINDINGS AND RECOMMENDATIONS
RECOMMENDING THE DISMISSAL OF
CERTAIN CLAIMS

(Doc. 36)

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. In its screening order filed October 27, 2010, the Court instructed Plaintiff to either file a second amended complaint curing the deficiencies in Plaintiff’s due process claim (denial of parole was not supported by “some evidence of current dangerousness”) or notify the Court of his willingness to proceed on his procedural due process claim (prison officials failed to provide him advanced notice of his February 5, 2008 parole hearing). (Doc. 26.) On March 29, 2011, Plaintiff informed the Court that he wished to proceed only on his procedural due process claim. (Doc. 36.)

Accordingly, it is **HEREBY RECOMMENDED** that:

1. Plaintiff’s due process claim that the parole board’s decision to deny him parole in 2008 was not supported by evidence demonstrating that Plaintiff posed a current danger to public safety be **DISMISSED**; and

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2. This action be allowed to proceed on Plaintiff's due process claim regarding the failure of Defendants L. Shelton and A. Armenta in providing Plaintiff advanced notice of his February 5, 2008 parole hearing.

These findings and recommendations are submitted to the United States District Judge assigned to the case pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: April 1, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE