UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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RICHARD S. KINDRED,

Plaintiff,

v.

DEPT. OF MENTAL HEALTH, et al.,

Defendants.

CASE NO. 1:08-cv-01321-GSA PC

ORDER DISMISSING DEFENDANTS

)

Defendants.

Plaintiff is a civil detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1).

On June 17, 2010, the Court issued an order finding that Plaintiff's complaint stated cognizable claims against Defendants Devine, Ahlin and Fields for violation of the First Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA), but did not state a cognizable claim against Defendants Department of Mental Health, Mayberg, Radavsky or Clark. Plaintiff did not state a claim against Defendant Ahlin in her supervisory capacity. 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 June 24, 2010, 2008, 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 order 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 ORDERED that: 1. This action proceeds on Plaintiff's complaint, filed September 5, 2008, against Defendants Devine, Ahlin and Fields for violation of the First Amendment and the Religious Land Use and Institutionalized Persons Act (RLUIPA); 2. Defendants Department of Mental Health, Mayberg, Radavsky and Clark are dismissed based on Plaintiff's failure to state any claims against him. 3. Plaintiff's supervisory liability claim against Defendant Ahlin is dismissed. IT IS SO ORDERED. Dated: <u>July 21, 2010</u>