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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

JOHN TILTON, et al.,

Defendants.

CASE NO. 1:09-cv-00157-AWI-SKO PC

ORDER DIRECTING ACTION TO PROCEED
ON FIRST AND EIGHTH AMENDMENT
CLAIMS AGAINST DEFENDANTS
BIRKHOLM, MAYUGBA AND SCHUTT,
DISMISSING OTHER CLAIMS AND
DEFENDANTS, AND REFERRING MATTER
BACK TO MAGISTRATE JUDGE FOR
FURTHER PROCEEDINGS

(Docs. 1, 19, and 24)

Plaintiff Barry Lamon, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 and California law on January 26, 2009. ([Doc. 1.](#)) On March 7, 2011, the Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and found that it states a First Amendment retaliation claim against Defendant Birkholm and an Eighth Amendment medical care claim against Defendants Birkholm, Mayugba, and Schutt. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 129 S.Ct. 1373, 1377 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65 (2007). ([Doc. 19.](#)) However, the Court found that Plaintiff’s other claims were not cognizable. Plaintiff was ordered to either file an amended complaint or notify the Court of his willingness to proceed only on his cognizable claims. On April 21, 2011, Plaintiff notified the Court that he is willing to proceed on the claims found to be cognizable in the screening order. ([Doc. 24.](#))

1 Accordingly, in light of the screening order and Plaintiff's election to proceed on his
2 cognizable claims, it is HEREBY ORDERED that:

- 3 1. This action shall proceed on Plaintiff's complaint, filed January 26, 2009, on
4 Plaintiff's First Amendment retaliation claim against Defendant Birkholm and
5 Plaintiff's Eighth Amendment medical care claim against Defendants Birkholm,
6 Mayugba, and Schutt;
- 7 2. All other defendants and claims are dismissed from this action; and
- 8 3. This matter is referred back to the Magistrate Judge to initiate the service of process
9 phase.

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11 IT IS SO ORDERED.

12 Dated: June 9, 2011

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15 CHIEF UNITED STATES DISTRICT JUDGE
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