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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LOUIS OLIVEREZ, JR.,

Plaintiff,

v.

BEN ALBITRE, et al.,

Defendants.

CASE NO. 1:09-cv-00352-LJO-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING MOTION
TO DISMISS, AND REQUIRING
DEFENDANTS TO FILE A RESPONSE TO
AMENDED COMPLAINT WITHIN THIRTY
DAYS

(Docs. 14 and 26)

Plaintiff Louis Oliverez, Jr., a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on February 26, 2009. This action is proceeding on Plaintiff’s amended complaint, filed May 7, 2009, against Defendants Albitre and Adams for violation of the Free Exercise Clause of the First Amendment. Plaintiff’s claim arises out of his inability to gain access to his prayer oil for prayer and worship.

This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On December 6, 2010, the Magistrate Judge filed a [Findings and Recommendations](#) recommending that Defendants’ motion to dismiss and for failure to exhaust be denied. Objections, if any, were to be filed within thirty days, and none were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the 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.

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1 Accordingly, it is HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed December 6, 2010, is adopted in full;
3 2. Defendants' motion to dismiss, filed April 23, 2010, is denied; and
4 3. Defendants shall file a response to Plaintiff's amended complaint within thirty days.

5
6 IT IS SO ORDERED.

7 **Dated: January 14, 2011**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE