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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LARRY D. THOMAS,

1:09-cv-00443 LJO YNP GSA (PC)

Plaintiff,

FINDINGS AND RECOMMENDATIONS

v.

HECTOR ROBLES, et al.,

Defendants.

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On July 2, 2009, the Court issued an order finding that Plaintiff's complaint states cognizable claims against certain defendants. The Court noted that Plaintiff failed to state a claim against the remaining defendnats. 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 July 13, 2009, 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 Findings and Recommendations 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 RECOMMENDED that:

1. Plaintiff's Eighth Amendment medical, malicious prosecution, conspiracy, equal protection and due process claims be dismissed.

