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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GREGORY MCKINNEY,

CASE NO. 1:09-cv-00726-OWW-SKO PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

v.

(Doc. 20)

CA DEPARTMENT OF CORRECTIONS
AND REHABILITATION, et al.,

Defendants.

_____ /

Plaintiff Gregory McKinney (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 13, 2010, the Magistrate Judge issued a Findings and Recommendations which recommended the dismissal of certain claims from Plaintiff’s first amended complaint. (Doc. #20.) The Findings and Recommendations were served on Plaintiff and contained notice to Plaintiff that any objections to the Findings and Recommendations were to be filed within thirty (30) days of the date on which the Findings and Recommendations were served. Plaintiff has not filed objections to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 305, this 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, the Court HEREBY ORDERS that:

- 2 1. The August 13, 2010 Findings and Recommendations are ADOPTED in full;
- 3 2. Plaintiff's due process claims and equal protection claims are DISMISSED for failure
- 4 to state a claim;
- 5 3. Plaintiff's Eighth Amendment claims against Defendants Hubbard and Knowles are
- 6 DISMISSED for failure to state a claim; and
- 7 4. This action shall proceed on Plaintiff's claims against Defendants Hedgpeth,
- 8 Harrington, Castro, Kays, and Soto for deliberate indifference toward a serious risk
- 9 to Plaintiff's health in violation of the Eighth Amendment.

10 IT IS SO ORDERED.

11 **Dated: September 16, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE