UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAMONT SHEPARD,

Plaintiff,

v.

T. QUILLEN, et al.,

Defendants.

/

CASE NO. 1:09-cv-00809-LJO-BAM PC

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (ECF. Nos. 73, 74, 84, 85)

ORDER STRIKING PLAINTIFF'S SURREPLY (ECF No. 82)

Plaintiff Lamont Shepard ("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.

Plaintiff filed a Motion for Summary Judgment on February 3, 2012, and Defendants filed a Motion for Summary Judgment on February 8, 2012.[1] On May 30, 2012, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within thirty days. On June 11, 2012, Plaintiff filed an Objection which has been considered by the Court.

[1] Plaintiff was provided with notice of the requirements for opposing a motion for summary judgment by the defendants in the Motion for Summary Judgment. Woods v. Carey, Nos. 09-15548, 09-16113, 2012 WL 2626912, at *5 (9th Cir. Jul. 6, 2012); Klingele v. Eikenberry, 849 F.2d 409 (9th Cir. 1988).

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

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed May 30, 2012, is adopted in full;
2. Plaintiff's Surreply, filed March 6, 2012 is STRICKEN FROM THE RECORD;
3 Plaintiff's Motion for Summary Judgment, filed February 3, 2012, is DENIED;
4. Defendants' Motion for Summary Judgment, filed February 8, 2012, is GRANTED IN PART and DENIED IN PART as follows:
   a. Defendant Quillen's Motion for Summary Judgment is DENIED;
   b. Defendant Wise's Motion for Summary Judgment is GRANTED; and
5. This action is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: July 12, 2012

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