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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL CHAVEZ,
Plaintiff,
v.
JAMES YATES, et al.,
Defendants.

Case No. 1:09-cv-1080-AWI-SKO PC
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND STRIKING
SECTION II OF MOTION TO DISMISS
(Docs. 34 and 41)

Plaintiff Michael Chavez, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 19, 2009. This action is proceeding on Plaintiff's Eighth Amendment claims against Defendants Ehrman, Igbinosa, Kushner, Diep, Hayden, Ahlin, Pineda, and Yates.

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 October 3, 2013, the Magistrate Judge filed a Findings and Recommendations which was served on the parties and which contained notice to the parties that Objections to the Findings and Recommendations were to be filed within five days. No Objections 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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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed on October 3, 2013, is adopted in full; and
2. Section II of Defendants' motion to dismiss is STRICKEN, pursuant to the rule of mandate.

IT IS SO ORDERED.

Dated: October 29, 2013



SENIOR DISTRICT JUDGE