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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HAROLD WALKER,

1:09cv1667 OWW DLB

Plaintiff,

v.

FINDINGS AND RECOMMENDATION
REGARDING DISMISSAL OF CERTAIN
DEFENDANTS

JERRY DYER, et al.,

Defendants.

/

Plaintiff Harold Walker (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to [42 U.S.C. § 1983](#) on September 21, 2009. He filed a First Amended Complaint on November 9, 2009.

On November 13, 2009, the Court issued an order requiring Plaintiff to either proceed on the claims found to be cognizable or submit an amended complaint. The Court explained that Plaintiff stated a section 1983 claim against Officers Alvarez, Aranas, Leibee, Dozier, Corona and Robles. The Court further explained that Plaintiff failed to state a claim against Defendants Dyer, Wilson, Durham and Madrid, and that if he chose to proceed only on the cognizable claim, the Court would recommend dismissal of these Defendants.

Plaintiff informed the Court on November 23, 2009, that he wished to proceed only on the cognizable claim. Accordingly, pursuant to Plaintiff’s request and for the reasons stated in the November 13, 2009, order, the Court RECOMMENDS that Defendants Dyer, Wilson, Durham and Madrid BE DISMISSED.

1 **RECOMMENDATION**

2 Based on the above, the Court finds that Defendants Dyer, Wilson, Durham and Madrid
3 should be DISMISSED WITHOUT LEAVE TO AMEND.

4 These Findings and Recommendations will be submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of [Title 28 U.S.C. § 636\(b\)\(1\)](#). Within
6 **thirty (30) days** after being served with these Findings and Recommendations, the parties may
7 file written objections with the court. The document should be captioned “Objections to
8 Magistrate Judge’s Findings and Recommendations.” The parties are advised that failure to file
9 objections within the specified time may waive the right to appeal the District Court’s order.
10 [Martinez v. Ylst, 951 F.2d 1153 \(9th Cir. 1991\)](#).

11 IT IS SO ORDERED.

12 **Dated: December 2, 2009**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE