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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE K. COLBERT,
Plaintiff,
v.
P. CHAVEZ, et al.,
Defendants.

Case No. 1:10-cv-00250-AWI-SAB
FINDING AND RECOMMENDATIONS
RECOMMENDING DISMISSING CERTAIN
CLAIMS
THIRTY-DAY DEADLINE

Plaintiff George K. Colbert (“Plaintiff”) is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action on February 16, 2010. (ECF No. 1.) On March 15, 2013, the Court screened Plaintiff’s complaint, and found that it states (1) cognizable claims for excessive force against Defendants Chavez, Doucan, Lindsey, Emard, Flores, Ramirez, and Farnsworth in violation of Plaintiff’s Eighth Amendment rights; and 2) cognizable claims against Defendants Chavez, Doucan, Lindsey, Emard, Flores, and Ramirez for retaliation in violation of Plaintiff’s First Amendment rights. The Court found that Plaintiff’s complaint failed to state any other cognizable claims. (ECF No. 18.)

Plaintiff was ordered to either file an amended complaint or notify the Court of his willingness to proceed only on the claims found to be cognizable. On April 25, 2013, Plaintiff filed a notice stating that he does not wish to amend and is willing to proceed only on his cognizable claims identified by the Court. (ECF No. 19.)

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Accordingly, based on Plaintiff's notice, it is HEREBY RECOMMENDED that:

1. This action shall proceed as one for damages against Defendants Chavez, Doucan, Lindsey, Emard, Flores, Ramirez and Farnsworth; and
2. Plaintiff's Fourth Amendment claims and First Amendment access to court claims are dismissed for failure to state a claim.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **thirty (30) days** after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: April 30, 2013


UNITED STATES MAGISTRATE JUDGE