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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JERRY COBB,

Plaintiff,

v.

KATHY MENDOZA-POWERS, et al.,

Defendants.

CASE NO. 1:10-cv-00642-LJO-BAM PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND GRANTING IN  
PART AND DENYING IN PART  
DEFENDANTS' MOTION TO DISMISS AND  
DISMISSING PLAINTIFF'S COMPLAINT,  
WITH LEAVE TO AMEND

(ECF No. 29)

/ THIRTY-DAY DEADLINE

Plaintiff Jerry Cobb is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 2000cc-1 (Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)). 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 November 9, 2011, 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 December 21, 2011, an order issued granting Plaintiff an additional thirty days to file objections. More than thirty days have passed and no objections have been filed.

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.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed November 14, 2011, is adopted in full;
- 3 2. Defendants' Motion to Dismiss for Failure to Exhaust Administrative Remedies is
- 4 GRANTED IN PART and DENIED IN PART as follows:
- 5 a. Defendants' Motion to Dismiss for Failure to Exhaust Administrative
- 6 Remedies is denied, without prejudice;
- 7 b. Defendants' Motion to Dismiss on the ground that the action was not filed
- 8 within the statute of limitations is DENIED as to Defendant Mendoza-
- 9 Powers;
- 10 c. Defendants' Motion to Dismiss for failure to state a claim is GRANTED for
- 11 Plaintiff's official capacity and injunctive relief claims against Defendant
- 12 Mendoza-Powers;
- 13 3. Plaintiff's Complaint, filed March 24, 2010, is DISMISSED, with leave to amend,
- 14 for failure to state a cognizable claim under section 1983;
- 15 4. Plaintiff's RLUIPA claims are dismissed, without leave to amend, as to the
- 16 individual defendants;
- 17 5. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
- 18 amended complaint; and
- 19 6. If Plaintiff fails to file an amended complaint in compliance with this order, this
- 20 action will be dismissed, with prejudice, for failure to state a claim.

21 IT IS SO ORDERED.

22 **Dated: February 7, 2012**

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