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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICKEY ADAMS,

Plaintiff,

v.

J. YATES, et al.,

Defendants.

1:10-cv-0671-AWI-MJS (PC)

FINDINGS AND RECOMMENDATIONS
FOR DISMISSAL OF CERTAIN OF
PLAINTIFF'S CLAIMS AND DEFENDANTS

(ECF Nos. 34 & 35)

_____ /

Plaintiff Rickey Adams ("Plaintiff") is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983.

On August 30, 2012, after reviewing Plaintiff's Second Amended Complaint, the Court ordered Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on his post-November 2008 First Amendment retaliation claim against Defendants Erickson, Rumbles, and Brumbaugh. (ECF No. 34.) On September 24, 2012, Plaintiff notified the Court of his willingness to forgo a third amended complaint and proceed with his post-2008 First Amendment retaliation claim. (ECF No. 35.)

Accordingly, all claims and Defendants in Plaintiffs Second Amended Complaint, except for his post-November 2008 First Amendment retaliation claim against Defendants Erickson, Rumbles, and Brumbaugh, should now be dismissed.

1 The Court hereby RECOMMENDS the following:

- 2 1. Plaintiff be allowed to proceed on his post-November 2008 First Amendment
3 retaliation claim against Defendants Erickson, Rumbles, and Brumbaugh;
4 2. Plaintiff's pre-November 2008 First Amendment retaliation claim against
5 Defendants Erickson, Rumbles, and Brumbaugh be dismissed;
6 3. Plaintiff's Fourteenth Amendment due process claim regarding prison
7 grievance procedures against Defendants Yates, Huckabay, and Grannis be
8 dismissed;
9 4. Plaintiff's Fourteenth Amendment due process claim regarding false rules
10 violation reports against Defendants Erickson, Rumbles, and Brumbaugh be
11 dismissed;
12 5. Plaintiff's conspiracy claim against Defendants Yates, Erickson, Rumbles,
13 Brumbaugh, Huckabay, Grannis, and Hubbard be dismissed; and
14 6. Defendants Yates, Huckabay, Grannis, and Hubbard be dismissed from the
15 action.

16 These Findings and Recommendations are submitted to the United States District
17 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).
18 Within fourteen (14) days after being served with these Findings and Recommendations,
19 any party may file written objections with the Court and serve a copy on all parties. Such
20 a document should be captioned "Objections to Magistrate Judge's Findings and
21 Recommendations." The parties are advised that failure to file objections within the
22 specified time may waive the right to appeal the District Court's order. Martinez v. Y1 st,
23 951 F.2d 1153 (9th Cir. 1991).

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27 IT IS SO ORDERED.

28 Dated: November 28, 2012

/s/ Michael J. Seng

UNITED STATES MAGISTRATE JUDGE

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