

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA

8
9 ROBERT MCDANIEL,
10 Plaintiff,
11 v.
12 FRANK X. CHAVEZ, et al.,
13 Defendants.

1:10-cv-01077-LJO-EPG (PC)
ORDER OVERRULING PLAINTIFF'S
OBJECTION TO FINDINGS AND
RECOMMENDATIONS
(ECF NO. 43)

14 Robert McDaniel ("Plaintiff") is a former state prisoner proceeding *pro se* and *in forma*
15 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On August 11, 2016,
16 Plaintiff filed the Fourth Amended Complaint. (ECF No. 39).

17 On September 8, 2016, the Court screened Plaintiff's Fourth Amended Complaint
18 pursuant to 28 U.S.C. § 1915A. (ECF No. 40). The Court recommended that the case proceed
19 against defendants Davis, Chavez, and Loyd for violation of due process, and that all other
20 claims and defendants be dismissed. (*Id.*). Plaintiff was given thirty days from the date of
21 service of the findings and recommendations to file an objection. (*Id.*). No objection was filed
22 within the thirty days, and District Judge Lawrence J. O'Niell adopted the Court's findings and
23 recommendations in full. (ECF No. 41). Then, on October 31, 2016, Plaintiff filed this
24 objection. (ECF No. 43).

25 The objection period has expired, and the findings and recommendations have already
26 been adopted. Accordingly, the objection is moot. Additionally, even had Plaintiff timely filed
27 his objection, it would not have changed the Court's ruling. Plaintiff has not put forward any
28 coherent arguments as to why the findings and recommendations were wrong. Plaintiff does

1 ask for additional time and clarification on an issue, presumably so that he can file another
2 amended complaint. However, this case is already on its fourth amended complaint. Plaintiff
3 has had multiple opportunities to amend his complaint and his objections advance no
4 arguments or facts that suggest further amendment would be anything other than futile.

5 Accordingly, the Court OVERRULES Plaintiff's objection. The October 31, 2016
6 Order finding service of the Fourth Amended Complaint appropriate (ECF No. 42) remains in
7 effect. Plaintiff must complete and return the documents attached to that Order by the deadline
8 set forth in that Order.

9
10 IT IS SO ORDERED.

11 Dated: November 4, 2016

/s/ Lawrence J. O'Neill
12 UNITED STATES CHIEF DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28