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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KEVIN FIELDS,

Plaintiff,

v.

JOSE MASIEL, et al.,

Defendants.

CASE NO. 1:10-cv-01699-AWI-BAM PC

ORDER DISMISSING CERTAIN CLAIMS  
AND DEFENDANTS, AND REFERRING  
MATTER BACK TO MAGISTRATE JUDGE  
TO INITIATE SERVICE OF PROCESS

(ECF No. 14)

Plaintiff Kevin Fields is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On November 29, 2011, the Magistrate Judge screened Plaintiff's [complaint](#), and found that it states a claim against Defendants Masiel, Aguirre, and Hernandez for retaliation in violation of the First Amendment, but does not state any other claims for relief under section 1983. 28 U.S.C. § 1915A. An [order](#) issued directing Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on the claim found to be cognizable. On December 20, 2011, Plaintiff filed a [notice](#) stating that he does not wish to amend and is willing to proceed only on his cognizable retaliation claim.

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

1. This action shall proceed against Defendants Masiel, Aguirre, and Hernandez for retaliation in violation of the First Amendment for monetary damages;

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- 2. Plaintiff's Eighth Amendment claims are dismissed, with prejudice, for failure to state a claim; and
- 3. This matter is referred back to the Magistrate Judge.

IT IS SO ORDERED.

Dated: December 23, 2011

  
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CHIEF UNITED STATES DISTRICT JUDGE