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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

|                             |   |   |
|-----------------------------|---|---|
| LAWRENCE CHRISTOPHER SMITH, | ) | Case No.: 1:10-cv-01814-LJO-JLT (PC)      |
|                             | ) |   |
| Plaintiff,                  | ) | <b>ORDER ON PLAINTIFF'S OBJECTIONS TO</b> |
|                             | ) | <b>ORDER ADOPTING FINDINGS AND</b>        |
| v.                          | ) | <b>RECOMMENDATIONS</b>                    |
|                             | ) |   |
| ALLISON, et al.,            | ) | (Doc. 49)                                 |
|                             | ) |   |
| Defendants.                 | ) |   |
|                             | ) |   |

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Plaintiff Lawrence Christopher Smith (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff timely submitted his Third Amended Complaint ("3rd AC"). (Doc. 31). The 3rd AC was previously screened and a findings and recommendation issued, to which Plaintiff filed objections. (Docs. 33, 35.) Upon receipt of Plaintiff’s objections, the Court revisited the findings and recommendation, re-screened the 3rd AC, vacating the prior findings and recommendations and issuing a second findings and recommendations that Plaintiff should be allowed to proceed on the following cognizable claims: retaliation in violation of the First Amendment against Defendants Lt. Goss, Lt. Gallagher, and Officer Langler; deliberate indifference to his serious medical needs in violation of the Eighth Amendment against Defendants PA Byers and Officer Langler; and due process violations against Defendant Lt. Goss. (Doc. 42.) The second findings and recommendations were adopted in whole. (Doc. 47.)

On January 16, 2014, Plaintiff filed objections to the order adopting the second findings and recommendations. (Doc. 49.) In his objections, Plaintiff notes two discrepancies in the order adopting the second findings and recommendations.

1 First, Plaintiff notes that "Allison" is listed in the caption of the order adopting the second  
2 findings and recommendations, despite Plaintiff having removed "Allison" from his pleadings upon  
3 one of the initial screenings "long ago." (Doc. 49, p. 1.) Plaintiff is correct that there is no longer any  
4 defendant by the name "Allison" in this action. However, when Plaintiff filed this action, he listed  
5 "Allison" as the first Defendant in the action (*see* Doc. 1, p. 1), so the name of this case is "Smith v.  
6 Allison, et al." Further, it is an internal administrative function of this Court's docketing system that  
7 the individual named as the first defendant in a Plaintiff's first pleading is the name listed as the  
8 leading defendant in the caption of the case for all subsequent events up to the eve of trial. While  
9 "Allison" was terminated as a defendant in this action on September 10, 2013, the name "Allison" may  
10 show up in the caption as it was part of the original name of this case. If a date for trial is set, the  
11 names of all persons who are no longer defendants in an action will be removed from all captions on  
12 documents to be used in the trial.<sup>1</sup>

13 Second, Plaintiff notes that the second findings and recommendations gave him thirty (30)  
14 days to file objections, rather than ten (10) days as noted in the order adopting. Plaintiff is correct that  
15 the second findings and recommendations gave him thirty (30) days to file objections. The order  
16 adopting contained a typographical error when it noted that Plaintiff had 10 days to file objections.  
17 However, this was nothing more than a typographical error and of no consequence as Plaintiff timely  
18 filed his objections which were considered in the order adopting. (*See* Doc. 47.)

19 Accordingly, it is hereby ordered that Plaintiff's objection to the name "Allison" appearing in  
20 various captions and documents in this case is **HEREBY OVERRULED** and Plaintiff's objection to  
21 the notation in the order adopting the second findings and recommendations that he had only 10 days  
22 to file objections when he in fact had 30 days to do so is **HEREBY SUSTAINED**.  
23 **IT IS SO ORDERED.**

24 Dated: January 23, 2014

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

26  
27 <sup>1</sup> In fact, if this case proceeds to trial, the name of the action will likely be changed to Smith v. Goss, et al., as  
28 prematurely noted on the second findings and recommendations.

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