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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAWN McCULLOUGH,

Plaintiffs,

v.

FRESNO POLICE DEPARTMENT,

Defendant.

CASE NO. 1:10-cv-2295-AWI-MJS

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS IN PART AND  
DISMISSING CERTAIN CLAIMS AND  
DEFENDANTS

(ECF No. 10)

/

Plaintiff Dawn McCullough (“Plaintiff”) initiated this action by filing a pro se Complaint on December 20, 2010, and is proceeding in forma pauperis. (ECF No. 1.) 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 April 9, 2012, the Magistrate Judge filed a Findings and Recommendations, recommending dismissal of certain of Plaintiff’s claims and Defendants. (ECF No. 10.) Plaintiff has filed objections. (ECF No. 16.) Plaintiff objects to the dismissal of Defendants M. Ramirez, Archan, Borrows, Cooper, Taylor, Robles, Yang, Jones, K. Rodriguez, Garland, Landin, Bowling, Chavez, Xiong, Worden, Barrious, and Emerson because she argues that through the course of discovery she will find information linking these Defendants to her claims. (Id.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(c) and Local Rule 305, this Court has conducted a de novo review of this case. After reviewing Plaintiff’s objections, the Court finds that they have some merit. With the additional facts included in the objections it is

1 possible Plaintiff could state a cognizable Fourth Amendment claim against Defendants M.  
2 Ramirez and Archan after additional information is gathered during the discovery phase of this  
3 matter. However even with the additional facts included in Plaintiff's opposition, it does not  
4 appear that Plaintiff could state a cognizable claim against Defendants Borrows, Cooper, Taylor,  
5 Robles, Yang, Jones, K. Rodriguez, Garland, Landin, Bowling, Chavez, Xiong, Worden, Barrious,  
6 and Emerson.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Findings and Recommendations, filed April 9, 2012, are adopted in part;
- 9 2. Plaintiff is allowed to proceed on her Fourth Amendment claim against Defendant  
10 Yambupa;
- 11 3. Plaintiff's Fourth Amendment claim against Defendants Ramirez and Archan are  
12 dismissed without prejudice;
- 13 4. Plaintiff's claims against Defendants Borrows, Cooper, Taylor, Robles, Yang,  
14 Jones, K. Rodriguez, Garland, Landin, Bowling, Chavez, Xiong, Worden, Barrious,  
15 and Emerson are dismissed with prejudice;
- 16 5. Defendants Ramirez and Archan are dismissed without prejudice;
- 17 6. Defendants Borrows, Cooper, Taylor, Robles, Yang, Jones, K. Rodriguez, Garland,  
18 Landin, Bowling, Chavez, Xiong, Worden, Barrious, and Emerson are dismissed  
19 with prejudice;
- 20 5. Plaintiff's First Amendment claim is dismissed with prejudice; and
- 21 6. Plaintiff's Fourteenth Amendment claim is dismissed with prejudice.

22  
23 IT IS SO ORDERED.

24 Dated: July 10, 2012

  
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CHIEF UNITED STATES DISTRICT JUDGE