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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICK DIXON,
Plaintiff,
v.
KATHLEEN ALLISON,
Defendant.

No. 1:10-cv-02365-DAD-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 36, 46)

Plaintiff Rick Dixon is a former inmate proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on plaintiff's fourth amended complaint against defendant Allison for unconstitutional conditions of confinement for denial of outdoor exercise in violation of the Eighth Amendment, denial of the right to religious expression in violation of the First Amendment, and denial of access to the courts in violation of the First Amendment. 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 November 18, 2016, defendant filed a motion to dismiss. (Doc. No. 36.) On August 3, 2017, the assigned magistrate judge issued findings and recommendations, recommending that defendant's motion to dismiss be granted in part. (Doc. No. 46.) The parties were provided thirty days in which to file objections to those findings and recommendations. (*Id.*) To date, neither party has filed objections, and the time for doing so has passed.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the
3 findings and recommendations to be supported by the record and proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations, filed August 3, 2017, are adopted in full and
6 defendant's motion to dismiss (Doc. No. 36) is granted in part and denied in part
7 as follows;
- 8 2. Defendant's motion to dismiss the religious expression and access to courts
9 claims as barred by the statute of limitations is granted;
- 10 3. Defendant's motion to dismiss the official capacity claims for monetary damages
11 is granted;
- 12 4. Defendant's motion to dismiss the unconstitutional conditions of confinement
13 claim for denial of outdoor exercise on the ground that defendant is entitled to
14 qualified immunity is denied without prejudice to that issue being raised at a later
15 stage in these proceedings;
- 16 5. Defendant's religious expression claim, access to courts claim, and official
17 capacity claims for monetary damages are dismissed;
- 18 6. This action shall proceed only against defendant in her individual capacity with
19 respect to plaintiff's unconstitutional conditions of confinement claim for denial
20 of outdoor exercise in violation of the Eighth Amendment; and
- 21 7. This matter is referred back to the magistrate judge for further proceedings
22 consistent with this order.

23 IT IS SO ORDERED.

24 Dated: September 27, 2017

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27 UNITED STATES DISTRICT JUDGE
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