

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

TIMOTHY HOWARD,

Plaintiff,

v.

D. L. DeAZEVEDO, et al.,

Defendants.

CASE NO. 1:11-cv-00101-AWI-SKO PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
DEFENDANTS' MOTION TO DISMISS,
WITH PREJUDICE

(Docs. 23 and 28)

Plaintiff Timothy Howard, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 20, 2011. 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 July 13, 2012, Defendants filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), and on November 29, 2012, the Magistrate Judge issued findings and recommendations recommending the motion be denied, with prejudice. The parties were granted fifteen days within which to file objections, but no objections were filed and on December 7, 2012, Defendants filed their answer to Plaintiff's amended complaint.

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

Accordingly, it is HEREBY ORDERED that:

1. The Court adopts the findings and recommendations filed on November 29, 2012, in full; and
2. Defendants' motion to dismiss, filed on July 13, 2012, is DENIED.

IT IS SO ORDERED.

Dated: January 7, 2013



UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28