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**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, DENYING  
DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT, AND REFERRING MATTER  
BACK TO MAGISTRATE JUDGE TO SET  
FOR TRIAL**  
(Docs. 56 and 75)

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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. This action for damages is proceeding on Plaintiff's amended complaint against Defendants DeAzevedo, Paz, and Stephens for retaliating against Plaintiff by searching his cell and confiscating or destroying his personal property, in violation of the First Amendment; against Defendant DeAzevedo for retaliating against Plaintiff by issuing him a false Rules Violation Report; and against Defendant James for depriving Plaintiff of his right to a fair disciplinary hearing by an impartial decision maker, in violation of the Due Process Clause of the Fourteenth 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 July 11, 2014, the Magistrate Judge filed a Findings and Recommendations recommending Defendants' motion for summary judgment be denied. The parties did not file objections.

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

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations, filed on July 11, 2014, is adopted in full;
- 6 2. Defendants' motion for summary judgment, filed on October 18, 2013, is  
7 DENIED; and
- 8 3. This matter is referred back to the Magistrate Judge to set for trial.

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10 IT IS SO ORDERED.

11 Dated: August 13, 2014

  
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12 SENIOR DISTRICT JUDGE

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