

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

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HOSAM KADDOURA,

Plaintiff,

v.

MATTHEW CATE, et al.,

Defendants.

CASE NO. 1:11-cv-01422-LJO-BAM PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(ECF Nos. 22, 23, 24)

THIRTY DAY DEADLINE

Plaintiff Hosam Kaddoura is a former state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. 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 October 29, 2012, the Magistrate Judge filed a [Findings and Recommendations](#) herein which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within thirty days. (ECF No. 23.) On November 16, 2012, plaintiff filed a document entitled "[Motion to Grant Leave to Amend](#) and Correct Deficiencies and Reconsideration of Findings and Recommendations Based on Corrected Deficiencies" in which he requests reconsideration of the Findings and Recommendations and seeks leave to file a second amended complaint. (ECF No. 24.) The Court construes Plaintiff's filing as an Objection to the Findings and Recommendation.

In his Objection, Plaintiff states that he did not understand Federal Rules of Civil Procedure 18 and 20. However, Plaintiff correctly sets forth what was required to state a claim. The issue with Plaintiff's amended complaint was that the facts do not state a claim for relief for a violation of his

1 due process rights based on the rule violation hearing, and therefore, the claims against Defendants
2 Bickett, Bergthold, Bogle, Bangi, Gilmore, Allen, Spatola, Bird, and Does are not appropriately
3 joined in this action. If Plaintiff wishes to pursue the claims against these individuals he needs to
4 bring the claims in a separate action.

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

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Findings and Recommendations, filed October 29, 2012, is adopted in full;
- 10 2. Plaintiff's First, Second, Third, and Seventh Causes of Action are dismissed, without
11 leave to amend, as improperly joined in this action under Federal Rules of Civil
12 Procedure 18 and 20;
- 13 3. Plaintiff's Fifth Cause of Action is dismissed, with prejudice, for failure to state a
14 claim;
- 15 4. Plaintiff's Tenth Cause of Action is dismissed, without leave to amend, as barred by
16 the Favorable Termination Rule;
- 17 5. Defendants Bickell, Bergthold, Bogle, Bangi, Gilmore, Allen, Spatola, Bird, and
18 Does are dismissed from this action as improperly joined under Rules 18 and 20; and
- 19 6. Within thirty days from the date of service of this order, Plaintiff shall either:
 - 20 a. File an amended complaint curing the deficiencies identified by the Court in
21 the Findings and Recommendations, or
 - 22 b. Notify the Court in writing that he does not wish to file an amended
23 complaint and is willing to proceed only against Defendants Calhoun and
24 Darbi.

25
26 IT IS SO ORDERED.

27 **Dated: November 20, 2012**

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