

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**

DAVID SAFIDI CAUTHEN, JR.,  
Plaintiff,  
v.  
RIVERA et al.,  
Defendants.

Case No. 1:12 cv 01747 LJO DLB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS REGARDING  
DEFENDANTS' MOTION TO DISMISS  
(Document 47)

ORDER REQUIRING DEFENDANTS TO  
FILE A RESPONSIVE PLEADING

Plaintiff David Safidi Cauthen, Jr. ("Plaintiff"), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 26, 2012.

On August 22, 2013, Defendants Rivera, Mackey, Waddle, Negrete, Northcutt and Arreola filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). 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 February 7, 2014, the Magistrate Judge issued [Findings and Recommendations](#) that Defendants' motion be granted in part and denied in part. The Findings and Recommendations were served on the parties and contained notice that any objections to the Findings and Recommendations were to be filed within thirty days. No party has filed objections.

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

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations, filed February 7, 2014, are ADOPTED in full;
- 6 2. Defendants' Motion to Dismiss (Document 21) is GRANTED IN PART as to  
7 Plaintiff's claim for damages against Defendants in their official capacity. It is  
8 DENIED on all other grounds; and
- 9 3. Defendants Rivera, Mackey, Waddle, Negrete, Northcutt and Arreola SHALL file a  
10 responsive pleading within thirty (30) days of the date of service of this order.<sup>1</sup>

11 IT IS SO ORDERED.

12 Dated: March 20, 2014

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

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  

---

<sup>1</sup> Defendant King filed an answer to January 14, 2014.