UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID ESTRADA, Plaintiff, vs.	1:13cv00919 LJO DLB PC ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
GIPSON, et al., Defendants.	(Document 187)
Defendants.	_

Plaintiff David Estrada ("Plaintiff") is a state prisoner proceeding pro se and in forma

Pauperis in this this civil action. Plaintiff filed his First Amended Complaint on August 7, 2013.

This action is proceeding against (1) Defendants Gipson and Espinosa for retaliation in violation of the First Amendment; and (2) Defendants Gipson, Espinosa, Lambert and Cavazos for violation of the Eighth Amendment.

On February 13, 2015, Defendants filed a motion for summary judgment. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

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On September 2, 2015, the Magistrate Judge issued <u>Findings and Recommendations</u> that Defendants' motion be granted. The Findings and Recommendations were served on the parties and contained notice that any objections were to be filed within thirty (30) days. Plaintiff filed <u>objections</u> on October 1, 2015, and Defendants filed a <u>reply</u> on October 8, 2015.¹

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a <u>de novo</u> review of this case. Having carefully reviewed the entire file, including Plaintiff's objections and Defendants' reply, the Court finds that the Findings and Recommendations are supported by the record and by proper analysis.

Plaintiff's objections are simply a repeat of the arguments made in his opposition and addressed by the Magistrate Judge in the Findings and Recommendations. Although Plaintiff contends that the Magistrate Judge erred, recitation of his prior arguments does not establish grounds upon which to question the Magistrate Judge's analysis.

To the extent that Plaintiff faults the Magistrate Judge for indicating that he would not search the record for issues of material fact, this does not demonstrate that the Magistrate Judge's analysis was flawed. First, as the Magistrate Judge correctly noted, the Court does not have a duty to search the record for triable issues of material fact, even in actions involving pro se litigants. In re Oracle Corp. Securities Litigation, 627 F.3d 376, 386 (9th Cir. 2010). Second, the Magistrate Judge concluded that even if Plaintiff provided evidence of his safety concerns, it did not factor into the Court's decision.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed September 2, 2015, are ADOPTED in full;

¹ All documents related to the motion for summary judgment, including the Findings and Recommendations, Plaintiff's objections and Defendants' reply, are filed under seal. However, as this order does not discuss any sensitive information, it need not be sealed.

1	2. Defendants' motion for summary judgment (Document 165) is GRANTED; and		
2	3.	3. Judgment is entered in favor of Defendants on all claims.	
3	This terminates this action in its entirety.		
4	IT IS SO ORDERED.		
5	Dated:	October 14, 2015	/s/ Lawrence J. O'Neill
6			UNITED STATES DISTRICT JUDGE
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