

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

BRADY K. ARMSTRONG,  
Plaintiff,  
v.  
D. PELAYO,  
Defendant.

Case No. 1:13-cv-01048-AWI-SKO (PC)  
  
ORDER (1) ADOPTING FINDINGS AND RECOMMENDATIONS, (2) DISMISSING ALL CLAIMS EXCEPT RETALIATION CLAIM, AND (3) REFERRING MATTER TO MAGISTRATE JUDGE FOR SERVICE OF PROCESS  
  
(Docs. 36 and 42)

\_\_\_\_\_ /

Plaintiff Brady K. Armstrong, a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 8, 2013. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302; and on October 9, 2014, the Magistrate Judge screened Plaintiff's amended complaint and issued a Findings and Recommendations. 28 U.S.C. § 1915A. Plaintiff was provided with twenty days within which to file an Objection, but he did not object. *Wilkerson v. Wheeler*, \_\_\_ F.3d \_\_\_, \_\_\_, No. 11-17911, 2014 WL 6435497, at \*3 (9th Cir. Nov. 18, 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

Accordingly, pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case, and it finds the Findings and Recommendations to be supported by the record and by proper analysis. Therefore, IT IS HEREBY ORDERED that:

///

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

1. The Findings and Recommendations, filed on October 9, 2014, is adopted in full;
2. This action shall proceed against Defendant Pelayo for damages on Plaintiff's First Amendment retaliation claim arising out of events on October 4, 2012;
3. All other claims, including Plaintiff's Eighth Amendment excessive force claim, Eighth Amendment medical care claim, and ADA claim, are dismissed, with prejudice, for failure to state a claim;
4. Plaintiff's claims for declaration and injunctive relief are dismissed as moot; and
5. This matter is referred back to the Magistrate Judge to initiate service of process.

IT IS SO ORDERED.

Dated: December 23, 2014

  
\_\_\_\_\_  
SENIOR DISTRICT JUDGE