

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID FLORENCE,

Plaintiff,

V.

S. FRAUNHEIM, et al.,

## Defendants.

**CASE No. 1:15-cv-01383-AWI-MJS (PC)**

**ORDER ADOPTING FINDING AND  
RECOMMENDATIONS (1) FOR SERVICE  
OF COGNIZABLE FIRST AMENDMENT  
CLAIMS AGAINST DEFENDANTS  
FRAUNHEIM AND RESER; AND (2) TO  
DISMISS ALL OTHER CLAIMS AND  
DEFENDANTS**

(ECF NO. 14)

## **THIRTY (30) DAY DEADLINE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought 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 of the United States District Court for the Eastern District of California.

On August 11, 2017, the Magistrate Judge issued findings and recommendations for service of Plaintiff's cognizable First Amendment free speech claims against Defendants Fraunheim and Reser, and for dismissal of all other claims with prejudice. (ECF No. 14.) Plaintiff filed no objections and the time for doing so has passed.

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

5           Based on the foregoing, it is HEREBY ORDERED that:

- 6           1. The Court adopts the findings and recommendations, filed August 11, 2017  
7           (ECF No. 14), in full;
- 8           2. Plaintiff shall proceed on his First Amendment free speech claims against  
9           Defendants Fraunheim and Reser;
- 10           3. All other claims asserted in the first amended complaint and all other  
11           named Defendants are DISMISSED with prejudice,
- 12           4. Service shall be initiated on the following Defendants:

13           **SCOTT FRAUNHEIM** – Warden at Pleasant Valley State Prison

14           **R. RESER** – Correctional Officer at Pleasant Valley State Prison

- 15           5. The Clerk of the Court shall send Plaintiff two (2) USM-285 forms, two (2)  
16           summons, a Notice of Submission of Documents form, an instruction sheet  
17           and a copy of the first amended complaint filed January 4, 2016;
- 18           6. Within thirty (30) days from the date of this order, Plaintiff shall complete  
19           and return to the Court the Notice of Submission of Documents along with  
20           the following documents:

- 21           a. One completed summons for each Defendant listed above,
- 22           b. One completed USM-285 form for each Defendant listed above,
- 23           c. Three (3) copies of the endorsed second amended complaint filed  
24           January 4, 2016;

- 25           7. Plaintiff need not attempt service on Defendants and need not request  
26           waiver of service. Upon receipt of the above-described documents, the  
27           Court shall direct the United States Marshal to serve the above-named  
28           Defendants pursuant to Federal Rule of Civil Procedure 4 without payment

1 of costs; and

2 8. The failure to comply with this order will result in dismissal of this action.

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4 IT IS SO ORDERED.

5 Dated: September 27, 2017

  
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10 SENIOR DISTRICT JUDGE