

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERALD MORRIS LARRY,
Plaintiff,
vs.
S. GOODWIN, et al.,
Defendants.

1:17-cv-00172-DAD-GSA-PC

FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT THIS ACTION PROCEED ONLY AGAINST DEFENDANTS GOODWIN AND REIS, ON PLAINTIFF'S EIGHTH AMENDMENT CONDITIONS OF CONFINEMENT CLAIMS, AND THAT ALL OTHER CLAIMS AND DEFENDANTS BE DISMISSED

OBJECTIONS, IF ANY, DUE IN 14 DAYS

I. BACKGROUND

Jerald Morris Larry (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On February 8, 2017, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) Plaintiff named as defendants S. Goodwin (Supervisor Cook), Reis (Supervisor Cook I), and John Does #1 and #2 (Maintenance Workers). (Id.)

The court screened Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A and found that it states cognizable Eighth Amendment claims for adverse conditions of confinement under § 1983 against defendants Reis and Goodwin. (ECF No. 11.) On October 10, 2017, Plaintiff was granted leave to either file an amended complaint or notify the court that he is willing to proceed only on the claims found cognizable by the court. (Id.) On October 27, 2017, Plaintiff

1 filed a notice informing the court that he does not wish to file an amended complaint and would
2 like to proceed only on the cognizable Eighth Amendment claims against defendants Reis and
3 Goodwin. (ECF No. 12.)

4 **II. CONCLUSION AND RECOMMENDATIONS**

5 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

6 1. This action proceed only against defendants S. Goodwin (Supervisor Cook) and
7 Reis (Supervisor Cook I), on Plaintiff's claims for adverse conditions of
8 confinement under the Eighth Amendment;
9 2. All remaining claims and defendants be dismissed from this action; and
10 3. Defendants John Does #1 and #2 (Maintenance Workers) be dismissed from this
11 action based on Plaintiff's failure to state any claims upon which relief may be
12 granted against them.

13 These Findings and Recommendations will be submitted to the United States District
14 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
15 fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff
16 may file written objections with the Court. The document should be captioned "Objections to
17 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
18 objections within the specified time may waive the right to appeal the District Court's order.
19 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 IT IS SO ORDERED.
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22 Dated: October 31, 2017

23 /s/ Gary S. Austin
24 UNITED STATES MAGISTRATE JUDGE
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