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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

WILLIAM J. GRADFORD,

Plaintiff,

v.

MCDOUGALL, et al.,

Defendants.

1:17-cv-00201-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS ACTION  
PROCEED ONLY AGAINST DEFENDANTS  
TIEXIERA AND MCCARTHY FOR  
RETALIATION IN VIOLATION OF THE FIRST  
AMENDMENT, AND THAT ALL OTHER  
CLAIMS AND DEFENDANTS BE DISMISSED  
OBJECTIONS, IF ANY, DUE IN 14 DAYS**

**I. BACKGROUND**

William J. Gradford (“Plaintiff”) is a prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On February 13, 2017, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) Plaintiff named as defendants five Stanislaus County Sheriff Deputies: McDougall, Tiexiera, McCarthy, Meservey, and Safford (collectively, “Defendants”).

The court screened Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915A and found that it states claims under § 1983 against defendants Tiexiera and McCarthy for retaliation in violation of the First Amendment, and against defendant McDougall for mail interference in violation of the Sixth Amendment. (ECF No. 16.) The court also found that Plaintiff’s two cognizable claims were unrelated under Rule 18. (*Id.* at 7 ¶A.) On October 16, 2017, Plaintiff was granted leave to either file an amended complaint or notify the court that he is willing to proceed on *only one* of the claims found cognizable by the court. (*Id.*) On October 23, 2017,

1 Plaintiff filed a notice informing the court that he does not wish to file an amended complaint  
2 and is willing to proceed on *only one* of the two cognizable claims. (ECF Nos. 17, 18.)  
3 Plaintiff requests the court to decide which of the two claims shall proceed in this action. (Id.)

4 **II. CONCLUSION AND RECOMMENDATIONS**

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

- 6 1. This action proceed only against defendants Tiexiera and McCarthy for  
7 retaliation in violation of the First Amendment;
- 8 2. All remaining claims and defendants be dismissed from this action;
- 9 3. Plaintiff's claims concerning mail interference, failure to protect him, and false  
10 disciplinary charges be dismissed from this action for violation of Rule 18 and  
11 Plaintiff's failure to state a claim; and
- 12 4. Defendants McDougall, Meservey, and Safford be dismissed from this action for  
13 violation of Rule 18 and Plaintiff's failure to state any claims upon which relief  
14 may be granted against them.

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

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24 IT IS SO ORDERED.

25 Dated: October 24, 2017

26 /s/ Gary S. Austin  
27 UNITED STATES MAGISTRATE JUDGE  
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