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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MADERO POUNCIL,	)	Case No.: 1:17-cv-00547-AWI-BAM (PC)
	)	
Plaintiff,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS AND DISMISSING
vs.	)	CERTAIN CLAIMS AND DEFENDANTS
	)	
D. LOPEZ,	)	(Doc. Nos. 20, 21)
	)	
Defendant.	)	
	)	

Plaintiff Madero Pouncil is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

On November 30, 2018, the Magistrate Judge issued findings and recommendations finding that Plaintiff’s second amended complaint states a cognizable Fourteenth Amendment equal protection claim against Defendant Lopez, but fails to state a cognizable claim against Defendant Stu Sherman or for declaratory relief. (Doc. No. 20.) The Magistrate Judge therefore recommended that this action proceed only on Plaintiff’s Fourteenth Amendment equal protection claim against Defendant Lopez, and that Defendant Stu Sherman and Plaintiff’s request for declaratory relief be dismissed, with prejudice. (*Id.* at 5-6.) The findings and recommendations were served that same date, and allowed fourteen days to file objections. (*Id.*) Plaintiff timely filed objections, dated December 13, 2018. (Doc. No. 21.)

///

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted  
2 a *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's  
3 objections, the Court finds the findings and recommendations to be supported by the record and  
4 by proper analysis. Plaintiff objects that if the litigation reveals that Defendant Stu Sherman has  
5 violated his rights, then he should be able to resubmit him as a defendant. On the current record  
6 and allegations, Plaintiff has stated no claim against Defendant Sherman, and therefore his  
7 dismissal is appropriate.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The findings and recommendations, issued on November 30, 2018 (Doc. No. 20),  
10 are adopted in full;

11 2. Defendant Stu Sherman and Plaintiffs' request for declaratory relief are  
12 dismissed, with prejudice, for Plaintiff's failure to state a cognizable claim;

13 3. This action proceeds on Plaintiff's Fourteenth Amendment equal protection claim  
14 against Defendant Lopez;

15 4. The Clerk of the Court is directed to update the docket and caption consistent with  
16 this order; and

17 5. This matter is referred back to the assigned Magistrate Judge for further  
18 proceedings, including initiation of service of process.

19  
20 IT IS SO ORDERED.

21 Dated: January 11, 2019

  
22 SENIOR DISTRICT JUDGE