

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 JAMES BOWELL,

10 Plaintiff,

11 vs.

12 F. MONTOYA, et al.,

13 Defendants.
14
15
16

1:17-cv-00605-LJO-GSA-PC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 18.)**

**ORDER FOR THIS CASE TO PROCEED
WITH PLAINTIFF'S COGNIZABLE
CLAIMS AGAINST DEFENDANTS
MONTOYA, CARTER, KILLMER, AND
LOPEZ, AND DISMISSING ALL OTHER
CLAIMS AND DEFENDANTS FOR
FAILURE TO STATE A CLAIM
(ECF No. 16.)**

17 James Bowell ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in
18 this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States
19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On October 3, 2018, the court entered [findings and recommendations](#), recommending that
21 this action proceed against defendants Montoya and Carter for violation of due process under the
22 Fourteenth Amendment, and against defendants Killmer and Lopez for conspiracy to place
23 Plaintiff at risk of serious harm, and for failure to protect Plaintiff under the Eighth Amendment;
24 and that all other claims and defendants be dismissed from this action based on Plaintiff's failure
25 to state a claim. (ECF No. 18.) On October 15, 2018, Plaintiff filed [objections](#) to the findings
26 and recommendations. (ECF No. 19.)

27 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
28 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,

1 including Plaintiff's objections, the court finds the findings and recommendations to be supported
2 by the record and proper analysis.

3 Accordingly, THE COURT HEREBY ORDERS that:

- 4 1. This case now proceeds against defendants Montoya and Carter for violation of
5 due process under the Fourteenth Amendment, and against defendants Killmer
6 and Lopez conspiracy to place Plaintiff at risk of serious harm, and for failure to
7 protect Plaintiff under the Eighth Amendment;
- 8 2. All other claims and defendants are dismissed from this action, based on
9 Plaintiff's failure to state a claim;
- 10 3. Plaintiff's claims under criminal law statutes, for making false reports, for
11 retaliation, and for violation of equal protection are dismissed from this action,
12 based on Plaintiff's failure to state a claim;
- 13 4. Defendants Doser and Hart are dismissed from this action, based on Plaintiff's
14 failure to state any claims against them;
- 15 5. The Clerk is directed to reflect the dismissal of defendants Doser and Hart on the
16 court's docket; and
- 17 6. This case is referred back to the Magistrate Judge, for further proceedings
18 including initiation of service of process.

19
20 IT IS SO ORDERED.

21 Dated: October 25, 2018

22 /s/ Lawrence J. O'Neill
23 UNITED STATES CHIEF DISTRICT JUDGE
24
25
26
27
28