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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAMEON LAMONT POWELL,
Plaintiff,
v.
CORRECTIONAL OFFICER WIDLEY, *et al.*,
Defendants.

No. 1:17-cv-00824-AWI-JDP
ORDER ADOPTING FINDINGS AND RECOMMENDATIONS
ORDER DENYING DEFENDANT’S MOTION TO DIMISS
ORDER DISMISSING NON-SERVED DEFENDANTS WITHOUT PREJUDICE
(ECF Nos. 23, 30)

Plaintiff Dameon Lamont Powell is a state prisoner proceeding *pro se* and *in forma pauperis* with 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.

On October 16, 2017, Defendants T. C. Davies, Rodriguez, Vasquez, and Wilson filed a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (ECF No. 23.) On June 28, 2018, the assigned magistrate judge issued findings and recommendations, recommending the Defendants’ motion to dismiss be denied. (ECF No. 30 at 3.) The assigned magistrate judge further recommended that defendants Widley and Zimmerman be dismissed without prejudice under Rule 4(m) based on Plaintiff’s failure to effectuate service process and failure to show cause why the non-served defendants should not be dismissed. (*Id.* at 4.) The

1 findings and recommendations were served on the parties and contained notice that any
2 objections thereto were to be filed within fourteen days after service. (*Id.*) No objections were
3 filed.

4 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
5 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
6 court finds the findings and recommendations to be supported by the record and proper analysis.

7 For these reasons,

- 8 1. The findings and recommendations issued June 28, 2018 (ECF No. 30) are
9 adopted in full;
- 10 2. Defendants T. C. Davies, Rodriguez, Vasquez, and Wilson's motion to dismiss
11 (ECF No. 23) is denied;
- 12 3. Defendants Widley and Zimmerman are dismissed without prejudice; and
- 13 4. This matter is referred back to the assigned magistrate judge for further
14 proceedings.

15 IT IS SO ORDERED.

16 Dated: August 1, 2018

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18 SENIOR DISTRICT JUDGE