UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

EARL D. SMITH,

Plaintiff,

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MARTINEZ, et al.,

Defendants.

CASE No. 1: 17-cv-01092-AWI-MJS (PC)

ORDER ADOPTING FINDINGS AND RECOMMENDATION FOR ACTION TO PROCEED ON FIRST AMENDMENT CLAIM AGAINST DEFENDANT MARTINEZ AND TO DISMISS ALL OTHER CLAIMS AND DEFENDANTS

(ECF NO. 16)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in 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 of the United States District Court for the Eastern District of California.

On November 7, 2017, the Magistrate Judge screened Plaintiff's first amended complaint and found that it states a cognizable First Amendment claim against Defendant Martinez, but no other cognizable claims. (ECF No. 14.) Plaintiff was ordered to file an amended complaint or notify the Court of his willingness to proceed only on the cognizable claim. (Id.) Plaintiff chose to proceed on the claim found cognizable by the Magistrate Judge. (ECF No. 15.) The Magistrate Judge then issued findings and recommendations for Plaintiff to proceed on the cognizable claim identified in the screening order, and for all other claims and Defendants to be dismissed. No objections

were filed. Instead, Plaintiff filed a second request to proceed on the cognizable claim. (ECF No. 18.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendation and the screening order to be supported by the record and by proper analysis.

Accordingly, it is HEREBY ORDERED that:

- The Court adopts the November 22, 2017 findings and recommendation (ECF No. 16) in full;
- 2. Plaintiff shall proceed on his First Amendment claim for money damages against Defendant Martinez; and
- All other claims and Defendants asserted in the first amended complaint are dismissed with prejudice.

IT IS SO ORDERED.

Dated: <u>January 17, 2018</u>

SENIOR DISTRICT JUDGE