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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK WELLS,
Plaintiff,
v.
ROSA GONZALES,
Defendant.

No. 1:17-cv-01240-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. No. 8)

Plaintiff Frank Wells is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed 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 April 6, 2018, the assigned magistrate judge screened plaintiff’s complaint and entered findings and recommendations, recommending that plaintiff’s complaint be allowed to proceed against defendant Rosa Gonzales on plaintiff’s claims for violation of his First Amendment right to free exercise of religion, violation of the Religious Land Use and Institutionalized Persons Act of 2000, retaliation in violation of the First Amendment, unreasonable searches in violation of the Fourth Amendment, and violation of California’s Bane Act. (Doc. No. 8 at 12.) In addition, the magistrate judge recommended that plaintiff’s state law claim for intentional infliction of emotional distress be dismissed with prejudice for failure to state a claim. (*Id.*)

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1 Plaintiff was provided an opportunity to file objections to the findings and
2 recommendations within 21 days. On April 27, 2018, plaintiff filed a notice stating that he has no
3 objections to the findings and recommendations. (Doc. No. 9.)

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 Accordingly, the court hereby orders that:

- 8 1. The findings and recommendations issued by the magistrate judge on April 6, 2018
9 (Doc. No. 8) are adopted in full;
- 10 2. This action now proceeds against defendant Rosa Gonzales on plaintiff's claims for
11 violation of his First Amendment right to free exercise of religion, violation of the
12 Religious Land Use and Institutionalized Persons Act of 2000, retaliation in violation
13 of the First Amendment, unreasonable searches in violation of the Fourth Amendment,
14 and violation of California's Bane Act;
- 15 3. Plaintiff's state law claim for intentional infliction of emotional distress is dismissed
16 with prejudice for failure to state a claim; and
- 17 4. This case is referred back to the assigned magistrate judge for further proceedings.

18 IT IS SO ORDERED.

19 Dated: July 17, 2018

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22 UNITED STATES DISTRICT JUDGE
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