1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 JONATHAN GRIGSBY, No. 1:17-cv-01384-DAD-JLT 12 Plaintiff. 13 ORDER ADOPTING FINDINGS AND v. RECOMMENDATIONS TO REOPEN THIS ACTION AND GRANT IN PART 14 C. PFEIFFER, et al., PLAINTIFF'S MOTION TO AMEND 15 Defendants. COMPLAINT AND MOTION FOR RECONSIDERATION 16 (Doc. No. 16) 17 18 19 Plaintiff Jonathan Grigsby ("plaintiff") is a state prisoner proceeding pro se and in forma 20 pauperis pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate 21 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 22 This action was closed on February 7, 2018, after the undersigned adopted the thenassigned magistrate judge's recommendation to dismiss this civil rights action, without prejudice 23 24 to plaintiff filing a petition for a writ of habeas corpus. (Doc. No. 12.) On March 2, 2018, 25 plaintiff filed a motion seeking to amend his complaint and for reconsideration of the 26 <sup>1</sup> The initial findings and recommendations to dismiss this action were issued by now-retired 27 United States Magistrate Judge Michael J. Seng on December 11, 2017. (Doc. No. 9.) On July 28 16, 2018, this case was assigned to Magistrate Judge Jennifer L. Thurston. 1

undersigned's adoption of the findings and recommendations. (Doc. No. 14.) On July 16, 2018, plaintiff filed a motion seeking a court order on his pending motion. (Doc. No. 15.)

On July 26, 2018, the magistrate judge currently assigned to this case issued findings and recommendations recommending that this action be re–opened and that plaintiff's motion to amend the complaint and his motion for reconsideration be granted in part. (Doc. No. 16.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen days. (*Id.* at 12.) Plaintiff timely filed objections on August 13, 2018. (Doc. No. 17.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the undersigned concludes the findings and recommendations are supported by the record and by proper analysis.

In his objections, plaintiff provides great detail regarding alleged violations of institutional policies and his administrative grievances. (*See*, *e.g.*, Doc. No. 17 at 6, ¶¶ 17–18.) However, as discussed by the magistrate judge's pending findings and recommendations, the mere violation of state regulations or denial of an inmate's administrative grievances does not establish constitutional violations. (Doc. No. 16 at 7–9.) Plaintiff presents no new arguments or allegations that provide a legal basis on which to question the magistrate judge's findings and recommendations.

Nonetheless, the undersigned agrees with the magistrate judge's recommendation that plaintiff's motion to amend and motion for reconsideration be granted in part. To the extent that plaintiff's complaint does not challenge the duration of his sentence, he is not precluded from bringing such claims in a civil rights action. (*See id.* at 5.) Additionally, the magistrate judge recommended that plaintiff's equal protection and due process claims should be dismissed with prejudice. (*Id.* at 9–11.) In reviewing plaintiff's extensive objections, the undersigned agrees that plaintiff will be unable to allege additional facts that would support such claims, and thus the granting of further leave to amend would be futile. However, further leave to amend will be granted with respect to plaintiff's retaliation claim.

1	Accordingly:		
2	1.	The findings and recommendations issued July 26, 2018 (Doc. No. 16) are adopted	
3		in full;	
4	2.	This action is reopened;	
5	3.	Plaintiff's motion to amend and motion for reconsideration (Doc. No. 14) is	
6		granted in part;	
7	4.	Plaintiff's complaint is dismissed with leave to amend only as to his retaliation	
8		claim, and all other claims and defendants are dismissed with prejudice;	
9	5.	Plaintiff shall, within twenty-eight days after the filing date of this order, file and	
10		serve an amended complaint that cures the defects noted in this order, and	
11		complies with the Federal Rules of Civil Procedure and the Local Rules of	
12		Practice.	
13	IT IS SO ORI	IT IS SO ORDERED.	
14	Dated:	Dated: August 30, 2018  UNITED STATES DISTRICT JUDGE	
15	_		
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			