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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEVEN DEON TURNER, JR.,

Plaintiff,

v.

WILLIAM J. SULLIVAN, *et al.*,

Defendants.

Case No. 1:17-cv-01737-AWI-JDP

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS THAT PLAINTIFF
PROCEED ON COGNIZABLE CLAIMS AND
THAT NON-COGNIZABLE CLAIMS BE
DISMISSED WITH LEAVE TO AMEND

(ECF No. 16.)

Plaintiff Steven Deon Turner, Jr., is a state prisoner proceeding without counsel in this civil rights action brought under 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 September 11, 2016, findings and recommendations were entered. (ECF No. 16.) The Magistrate Judge found that plaintiff has stated claims against defendants Busby, Johnson, Gray, and Gomez for retaliation in violation of the First Amendment and for conspiracy,¹ but that Plaintiff failed to state claims against defendants Sullivan, Burgess, and Butler. (ECF No. 16.) The Magistrate Judge recommended that claims against these defendants be dismissed with leave to amend. (Id.)

Plaintiff file objections to the findings and recommendations on September 24, 2018. (ECF No. 24) Plaintiff also lodged a first amended complaint the same day.

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

¹ The Magistrate Judge authorized service of the complaint as to these defendants. (ECF No. 17.)

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations issued by the Magistrate Judge on September 11, 2016 (ECF No. 16) are adopted in full;
2. This action now proceeds on the following two sets of claims:
 - a. claims against defendants Busby, Johnson, Gray and Gomez for retaliation in violation of the First Amendment;
 - b. claims against defendants Busby, Johnson, Gray and Gomez for conspiracy to violate plaintiff's constitutional rights;
3. Plaintiff's claims against Defendant Sullivan for unconstitutional conditions of confinement and the claims against Defendants Burgess and Butler are dismissed without prejudice;
4. Plaintiff's lodged proposed First Amended Complaint is considered FILED as of the date of this order;
5. This case is referred back to the Magistrate Judge for further proceedings, including the screening of the First Amended Complaint.

IT IS SO ORDERED.

Dated: October 18, 2018



SENIOR DISTRICT JUDGE