

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARLIN PENN,
Plaintiff,
v.
A. LUCAS, *et al.*,
Defendants.

Case No. 1:18-cv-01482-AWI-JDP
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS THAT PLAINTIFF
BE PERMITTED TO PROCEED ON
COGNIZABLE CLAIMS AND THAT NON-
COGNIZABLE CLAIMS BE DISMISSED
WITH LEAVE TO AMEND
ECF No. 12

Plaintiff Marlin Penn 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 May 21, 2019, the magistrate judge screened plaintiff’s complaint. (ECF No. 12.) The magistrate judge issued findings and recommendations that (1) plaintiff has stated retaliation claims against defendants Lucas and Hernandez; (2) plaintiff’s remaining claims should be dismissed without prejudice; and (3) plaintiff should be granted leave to amend the complaint. (*Id.*) Plaintiff filed objections to the findings and recommendations on June 3, 2019. (ECF No. 13.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations (ECF No. 12) to be supported by the record and by proper analysis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued on May 21, 2019 (ECF No. 12) are adopted consistent with this order;
2. Plaintiff states retaliation claims against defendants Lucas and Hernandez;
3. Plaintiff's remaining claims and defendants are dismissed with leave to amend, consistent with this order;
4. Plaintiff may file an amended complaint within thirty (30) days of service of this order; and
5. If Plaintiff does not file a timely amended complaint, this matter is referred to the Magistrate Judge to facilitate service of process and for other purposes.

IT IS SO ORDERED.

Dated: November 22, 2019



SENIOR DISTRICT JUDGE