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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN WESLEY WILLIAMS,
Plaintiff,
v.
PILKERTEN, et al.,
Defendants.

No. 1:19-cv-00151-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 13)

Plaintiff John Wesley Williams is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This 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 23, 2019, the assigned magistrate judge screened the complaint and issued a screening order, finding that plaintiff stated cognizable claims for retaliation in violation of the First Amendment and deliberate indifference in violation of the Eighth Amendment against defendants Castro, Mirda, Serna, Fernandez, Hicks, and Villarrial but failed to state any cognizable claim against defendant Pilkerten. (Doc. No. 8.) Plaintiff was granted leave to file an amended complaint or notify the court of his willingness to proceed only on the claims found to be cognizable in the screening order within thirty (30) days after service of the screening order.

(*Id.* at 7.)

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1 After he failed to respond to the May 23, 2019 order, an order was issued requiring
2 plaintiff to show cause why this action should not be dismissed. (Doc. No. 9.) On July 12, 2019,
3 plaintiff notified the court of his willingness to proceed only on the claims identified as
4 cognizable by the screening order. (Doc. No. 11.) On July 15, 2019, plaintiff responded to the
5 court's order to show cause, stating that he had not received the court's May 23, 2019, screening
6 order until late June or early July. (Doc. No. 12.)

7 Consequently, on July 17, 2019, the magistrate judge vacated the order to show cause and
8 issued findings and recommendations, recommending that this action proceed on plaintiff's
9 claims for retaliation in violation of the First Amendment and deliberate indifference in violation
10 of the Eighth Amendment against defendants Castro, Mirda, Serna, Fernandez, Hicks, and
11 Villarrial, and that the claims against defendant Pilkerten be dismissed. (Doc. No. 13.) The
12 findings and recommendations were served on plaintiff and contained notice that any objections
13 thereto were to be filed within fourteen (14) days after service. (*Id.* at 2.) No objections have
14 been filed and the time in which to do so has now passed.

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

19 Accordingly:

- 20 1. The findings and recommendations filed on July 17, 2019, (Doc. No. 13), are adopted
21 in full;
- 22 2. This action shall proceed on plaintiff's claims of retaliation in violation of the First
23 Amendment and deliberate indifference in violation of the Eighth Amendment against
24 defendants Castro, Mirda, Serna, Fernandez, Hicks, and Villarrial;
- 25 3. Defendant Pilkerten is dismissed from the action due to plaintiff's failure to state a
26 cognizable claim for relief against her; and

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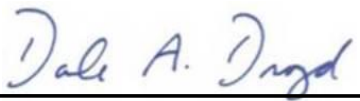
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4. The matter is referred back to the magistrate judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: August 27, 2019


UNITED STATES DISTRICT JUDGE