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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUILLERMO GARCIA,
Plaintiff,
v.
M. BALDWIN, et al.,
Defendants.

No. 1:19-cv-00184-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 56)

Plaintiff Guillermo Garcia is a state prisoner appearing *pro se* in this civil rights action 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 September 16, 2020, the assigned magistrate judge screened plaintiff's first amended complaint and found that plaintiff stated a cognizable claim against defendants F.X. Chavez and J. Kavanaugh for retaliation in violation of the First Amendment, but failed to state any other cognizable claims against any other defendants. (Doc. No. 54.) Plaintiff was ordered to either file a second amended complaint or notify the court of his willingness to proceed only on the cognizable claim. (*Id.* at 15–16.) On October 1, 2020, plaintiff notified the court of his willingness to proceed only on the cognizable claim identified by the court. (Doc. No. 55.)

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1 Consequently, on October 5, 2020, the assigned magistrate judge issued findings and
2 recommendations that this action proceed on plaintiff’s first amended complaint only against
3 defendants F.X. Chavez and J. Kavanaugh for retaliation in violation of the First Amendment,
4 and that all other claims and defendants be dismissed. (Doc. No. 56.) The findings and
5 recommendations were served on plaintiff and contained notice that any objections thereto were
6 to be filed within fourteen (14) days after service. (*Id.* at 2.) After receiving four extensions of
7 time, plaintiff filed timely objections on February 2, 2021. (Doc. No. 65.)

8 Plaintiff’s objections primarily reiterate his allegations from his first amended complaint,
9 but do not address the reasoning of the magistrate judge in the pending findings and
10 recommendations. (*Id.*) Additionally, plaintiff argues that his state law claims were timely filed
11 within the applicable statute of limitations period. (*Id.* at 11.) The assigned magistrate judge
12 considered the sufficiency of these allegations in the pending findings and recommendations. In
13 short, plaintiff’s arguments advanced in his objections to the pending findings and
14 recommendations are unpersuasive.

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

19 Accordingly,

- 20 1. The findings and recommendations issued on October 5, 2020 (Doc. No. 56) are
21 adopted in full;
- 22 2. This action shall proceed on plaintiff’s first amended complaint against defendants
23 F.X. Chavez and J. Kavanaugh for retaliation in violation of the Eighth
24 Amendment;
- 25 3. All other claims and defendants are dismissed from the action; and

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4. This action is referred back to the assigned magistrate judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: March 16, 2021

Dale A. Floyd
UNITED STATES DISTRICT JUDGE