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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JAMES CATO, JR.,

 Plaintiff,

 v.

M. DENNING, et al.,

 Defendants.

Case No. 1:19-cv-00951-LJO-SAB (PC)

**FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS**

(ECF Nos. 10, 11)

FOURTEEN (14) DAY DEADLINE

Plaintiff James Cato, Jr. is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 23, 2019, the Court screened Plaintiff’s complaint and found that Plaintiff stated a cognizable claim against Defendants Denning and Hillman, in their individual capacity, for violation of Plaintiff’s right to receive mail under the First Amendment, but failed to state any other cognizable claims. (ECF No. 10.) The Court ordered Plaintiff to file either a first amended complaint or a written notice informing the Court that he is willing to proceed only on the cognizable claim. (*Id.* at 5.)

On September 3, 2019, Plaintiff filed a written notice of his intent to proceed only on the cognizable claim identified by the Court. (ECF No. 11.)

Accordingly, the Court will recommend that this action proceed only against Defendants Denning and Hillman, in their individual capacity, for violation of Plaintiff’s right to receive mail

1 under the First Amendment, and that all other claims be dismissed. Fed. R. Civ. P. 8(a); Ashcroft
2 v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007);
3 Hebbe v. Pliler, 627 F.3d 338, 341-42 (9th Cir. 2010).

4 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 5 1. This action proceed on Plaintiff's complaint, filed on July 11, 2019, (ECF No. 1),
6 against Defendants Denning and Hillman, in their individual capacity, for violation
7 of Plaintiff's right to receive mail under the First Amendment; and
- 8 2. All other claims be dismissed from the action for failure to state a cognizable
9 claim for relief.

10 These Findings and Recommendations will be submitted to the United States District
11 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen**
12 **(14) days** after being served with these Findings and Recommendations, Plaintiff may file written
13 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
14 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
15 specified time may result in the waiver of the "right to challenge the magistrate's factual
16 findings" on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v.
17 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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20 IT IS SO ORDERED.

21 Dated: September 4, 2019


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UNITED STATES MAGISTRATE JUDGE