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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALEJANDRO MADRID,  
Plaintiff,  
v.  
H. ANGLEA, et al.,  
Defendants.

Case No. 1:19-cv-01456-NONE-JLT (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DISMISS CLAIMS AND  
DEFENDANTS**

14-DAY DEADLINE

On July 14, 2020, the Court screened Plaintiff’s first amended complaint and found that it states cognizable claims against Defendant Anglea in his individual capacity, but not against Defendants Toubeaux or Voong. (Doc. 12.) The Court further found that the complaint’s equal protection, retaliation, and official-capacity claims were not cognizable. (*Id.*) The Court therefore directed Plaintiff to file a second amended complaint curing the deficiencies in his pleading or to notify the Court that he wishes to proceed only on the claims found cognizable. (*Id.* at 11-12.)

On September 8, 2020, Plaintiff filed a notice “that he wishes to proceed only on the claims found cognizable by the court.” (Doc. 15.) Therefore, the Court issued findings and recommendations, recommending that Defendants Toubeaux and Voong be dismissed, and that Plaintiff’s non-cognizable claims be dismissed. (Doc. 17.)

Plaintiff filed objections to the findings and recommendations. (Doc. 20.) The Court interpreted Plaintiff’s objections as indicating that he did not intend to dismiss the claims the

1 Court had found incognizable, and thus it withdrew its findings and recommendations and  
2 directed Plaintiff to file a second amended complaint. (Doc. 21.)

3 On November 13, 2020, Plaintiff filed a response to the order, stating that he  
4 “misinterpreted” the Court’s screening order, and that he “reasserts that he wishes to proceed only  
5 on the claims found cognizable by the Court against Defendant Anglea.” (Doc. 23.) Accordingly,  
6 and for the reasons set forth in its screening order (Doc. 12), the Court **RECOMMENDS** that:

- 7 1. Defendants Toubeaux and Voong be **DISMISSED**; and,
- 8 2. Plaintiff’s claims against Defendants Toubeaux and Voong and his equal  
9 protection, retaliation, and official-capacity claims be **DISMISSED**.

10 These Findings and Recommendations will be submitted to the United States District  
11 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days of  
12 the date of service of these Findings and Recommendations, Plaintiff may file written objections  
13 with the Court. The document should be captioned, “Objections to Magistrate Judge’s Findings  
14 and Recommendations.” Failure to file objections within the specified time may result in waiver  
15 of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*  
16 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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18 IT IS SO ORDERED.

19 Dated: November 17, 2020

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE

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