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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ALLEN HAMMLER,
Plaintiff,
vs.
J. LYONS, et al.,
Defendants.

1:19-cv-01650-AWI-GSA-PC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
THAT DEFENDANT LUCAS’S RULE
12(b)(6) MOTION TO DISMISS THE
COMPLAINT BE GRANTED IN PART
AND DENIED IN PART
(ECF No. 30.)**

**ORDER FOR DEFENDANT LUCAS TO
FILE ANSWER TO FIRST AMENDED
COMPLAINT WITHIN 30 DAYS
(ECF No. 12.)**

Allen Hammler (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 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 July 6, 2021, findings and recommendations were entered, recommending that defendant Lucas’s Rule 12(b)(6) motion to dismiss be granted in part and denied in part. (ECF No. 34.) On July 26, 2021, Plaintiff filed objections to the findings and recommendations. (ECF No. 35.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,

1 including Plaintiff's objections, the court finds the findings and recommendations to be supported
2 by the record and proper analysis.

3 Accordingly, THE COURT HEREBY ORDERS that:

- 4 1. The findings and recommendations entered by the Magistrate Judge on July 6,
5 2021, are ADOPTED IN FULL;
- 6 2. Defendant Lucas's Rule 12(b)(6) motion to dismiss this case, filed on February 9,
7 2021, is granted in part and denied in part;
- 8 3. Defendant Lucas's motion to dismiss Plaintiff's retaliation claim against
9 defendant Lucas is granted, without leave to amend;
- 10 4. Defendant Lucas's motion to dismiss Plaintiff's claim for violation of freedom of
11 speech is denied;
- 12 5. Defendant Lucas's request for qualified immunity is denied;
- 13 6. Plaintiff's retaliation claim is dismissed, without leave to amend;
- 14 7. This case now proceeds only with Plaintiff's claim against defendant Lucas for
15 violation of Plaintiff's rights to freedom of speech under the First Amendment;
- 16 8. Defendant Lucas is ordered to file an Answer to the First Amended Complaint
17 within thirty days of the date of service of this order; and
- 18 9. This action is referred back to the Magistrate Judge for further proceedings.

19 IT IS SO ORDERED.

20 Dated: July 27, 2021

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22 SENIOR DISTRICT JUDGE
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