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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NATHANIEL MARCUS GANN,
Plaintiff,
v.
VALLEY STATE PRISON, et al.,
Defendants.

No. 1:19-cv-01797-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CERTAIN CLAIMS AND DEFENDANTS

(Doc. No. 29)

Plaintiff Nathaniel Marcus Gann 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 May 3, 2021, the court entered findings and recommendations, recommending that this action proceed only against defendants Warden Raythel Fisher, Jr., Dining Hall Officer Paez, and Culinary Staff Members Anguiano, Chapas, Lucero, Marquez, Cruz, and Moosebaur for violation of RLUIPA, violation of the First Amendment Free Exercise Clause, and adverse conditions of confinement in violation of the Eighth Amendment; against defendants Warden Raythel Fisher, Jr., and Moosebaur for failure to protect plaintiff in violation of the Eighth Amendment; and against defendant Moosebaur for retaliation in violation of the First Amendment; and that all other claims and defendants be dismissed from this action based on plaintiff's failure to state a

1 claim. (Doc. No. 29.) The findings and recommendations were served on plaintiff and provided
2 notice that any objections must be filed within fourteen days. (*Id.*) No objections have been filed
3 to date, and the time to do so has passed.

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

7 Accordingly,

8 1. This action now proceeds as follows:

- 9 a. Against defendants Warden Raythel Fisher, Jr., Dining Hall Officer Paez, and
10 Culinary Staff Members Anguiano, Chapas, Lucero, Marquez, Cruz, and
11 Moosebaur for violation of RLUIPA, violation of the First Amendment Free
12 Exercise Clause, and adverse conditions of confinement in violation of the Eighth
13 Amendment;
- 14 b. Against defendants Warden Raythel Fisher, Jr., and Moosebaur for failure to
15 protect plaintiff in violation of the Eighth Amendment; and
- 16 c. Against defendant Moosebaur for retaliation in violation of the First Amendment;

17 2. All remaining claims and defendants are dismissed from this action;

18 3. Plaintiff's claims for violation of equal protection, improper inmate appeals process,
19 and conspiracy are dismissed from this action based on plaintiff's failure to state any
20 claims upon which relief may be granted;

21 4. Defendants CDCR, John Doe #1 (Headquarter Community Resource Manager), John
22 Doe #2 (Associate Director of the Division of Adult Institutions), John Doe #3 (CDCR
23 Departmental Food Administrator), J. Knight (Appeals Examiner), T. Thornton
24 (Appeals Analyst, VSP), Timothy Anderson (inmate), John Doe #4 (inmate), Keene
25 (Housing Unit Officer), Avila-Gonzalez (Correctional Officer), Sergeant Clements,
26 Sergeant Santoya, C. Hernandez (Food Manager), Mohktar (Food Manager), and
27 Hayman (Culinary Supervisor Cook II) are dismissed from this action based on
28 plaintiff's failure to state any claims against them upon which relief may be granted;

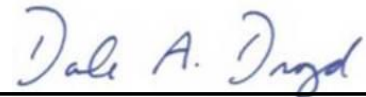
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and

5. This case is referred back to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: June 7, 2021



UNITED STATES DISTRICT JUDGE