

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY DELMAR HENDERSON,
Plaintiff,
v.
G. AGAME, et al.,
Defendants.

Case No. 1:20-cv-00635-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS CLAIMS AND DEFENDANT**

14-DAY DEADLINE

Clerk of the Court to Assign a District Judge

On February 6, 2021, the Court screened Plaintiff’s first amended complaint and found that it states a cognizable claim against Defendant Agame for a violation of the First Amendment. (Doc. 13.) The remaining 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 claim found cognizable. (*Id.*)

On March 8, 2021, Plaintiff filed a notice that he “wishes to proceed on only the First Amendment claim” against Defendant Agame. (Doc. 14.) Accordingly, and for the reasons set forth in the Court’s screening order (Doc. 13), the Court RECOMMENDS that:

1. Defendant Esmond DISMISSED; and,
2. The claims in Plaintiff’s complaint be DISMISSED, except for its First Amendment claim against Defendant Agame.

The Court DIRECTS the Clerk of the Court to assign a district judge to this action.

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

8
9 IT IS SO ORDERED.

10 Dated: March 9, 2021

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28