

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
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANDREW RICK LOPEZ,
Plaintiff,
v.
D. PETERSON, et al.,
Defendants.

No. 2:98-cv-2111-MCE-EFB P

ORDER

Plaintiff, a state prisoner proceeding through counsel, has filed this civil rights action seeking relief under 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 February 9, 2017, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has filed objections to the findings and recommendations. Defendants have filed a response to those objections.

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


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

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed February 9, 2017, (ECF No. 476) are ADOPTED in full.
2. Plaintiff's motion for summary judgment (ECF No. 458) is DENIED.
3. Defendants' motion for summary judgment (ECF No. 466) is GRANTED in part. The following claims are DISMISSED:
 - (a) Eighth Amendment claims against defendants Castro and D. Peterson;
 - (b) Fourteenth Amendment claims against defendants Holmes, C.J. Peterson, and D. Peterson;
 - (c) Fourteenth Amendment claims against defendants Babich, Baughman, and Diggs;
 - (d) First Amendment claims against defendant Baughman; and
 - (e) First and Fourteenth Amendment claims against defendant Reyes.
4. Defendants' motion is DENIED in all other respects.
5. Plaintiff's motion for substitution of deceased defendant (ECF No. 465) is DENIED as moot.

IT IS SO ORDERED.

Dated: June 16, 2017


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE