

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE WASHINGTON,

Plaintiff,

No. CIV S-06-1994 WBS DAD P

vs.

J. BROWN, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, 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 July 12, 2010, 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 twenty-one days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

////

1 1. The findings and recommendations of the magistrate judge filed July 12, 2010,
2 are adopted in substance;

3 2. Defendants' September 16, 2009 motion for summary judgment (Doc. No. 99)
4 is granted in part and denied in part as follows:

5 A. Defendants' motion for summary judgment on plaintiff's inadequate
6 medical care claim against defendant Kissinger is granted for the reason that the undisputed
7 evidence establishes that DEFENDANT KISSINGER DID NOT WORK AT THE
8 PRISON FROM OCTOBER 4 TO OCTOBER 7, 2004, AND PLAINTIFF HAS
9 FAILED TO PRESENT ANY EVIDENCE TO SUPPORT HIS CONTENTION
10 THAT DEFENDANT KISSINGER "SET INTO MOTION" THE SERIES OF
11 EVENTS OR CONVINCED OTHER PRISON OFFICIALS TO DELAY AND
12 INTERFERE WITH PLAINTIFF'S ABILITY TO EAT WHILE DEFENDANT
13 KISSINGER WAS ABSENT FROM WORK;

14 B. Defendants' motion for summary judgment on plaintiff's free exercise
15 and RLUIPA claims against defendants Brewer and Kissinger is denied;

16 C. Defendants' motion for summary judgment with respect to their
17 affirmative defense of qualified immunity is denied; and

18 D. Defendants' motion for partial summary judgment with respect to
19 damages on plaintiff's free exercise and RLUIPA claims against defendant Mohamed is denied.

20 DATED: August 20, 2010

21 

22 WILLIAM B. SHUBB
23 UNITED STATES DISTRICT JUDGE
24
25
26