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

ROBERT MITCHELL,

Plaintiff,

No. CIV S-06-2321 GEB GGH P

vs.

D.G. ADAMS, 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 27, 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 fourteen days. Plaintiff and defendants have filed objections to the findings and recommendations; defendants have filed a reply to plaintiff's 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

1 proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed July 27, 2010, are adopted in full;

4 2. Plaintiff's motion for partial summary judgment, filed on November 24, 2009
5 (docket # 71) is granted in part and denied in part:

6 a) Granted as to plaintiff's claims of a violation of his rights under the
7 Equal Protection Clause of the Fourteenth Amendment as to defendants Ortiz, J.A. Diaz, J. Diaz,
8 Tellerico/Tallerico, Vanderville, Owen and Hellwig, and judgment is entered for plaintiff on
9 these claims;

10 b) Denied as to plaintiff's claims of a violation of his First Amendment
11 rights on plaintiff's claim of retaliation by defendant Morrison for plaintiff having filed
12 grievances and complaints and for his allegedly having denied him access to the courts;

13 c) Denied as to plaintiff's claims that defendants Vanderville, Owen and
14 Hellwig retaliated against him by placing him at a higher custody level;

15 3. Defendants' cross-motion for summary judgment, filed on December 28, 2009
16 (docket # 78), is granted in part and denied in part:

17 a) Granted as to plaintiff's claim of a violation of his First Amendment
18 rights by defendant Morrison with regard to a denial of his right to access to the courts only;

19 b) Denied as to plaintiff's claim that defendant Morrison retaliated against
20 plaintiff in violation of the First Amendment for filing inmates grievances/complaints, and this
21 claim shall proceed;

22 c) Granted as to defendant Epperson on plaintiff's claim of a Fourteenth
23 Amendment Equal Protection violation;

24 d) Granted as to defendant Daviega on plaintiff's First Amendment
25 retaliation claim;

26 e) Denied as to plaintiff's claims that defendants Vanderville, Owen and

1 Hellwig retaliated against him by placing him at a higher custody level and these claims shall
2 proceed;

3 f) Granted as to plaintiff's claims against defendants Adams and Ortiz on
4 plaintiff's claims of retaliation;

5 g) Denied as to plaintiff's claims of retaliation by defendants J.A. Diaz,
6 Hill, Hubach, J. Diaz, Tellerico/Tallerico and Epperson because of grievances and complaints by
7 plaintiff and these claims shall proceed;

8 h) Granted as to plaintiff's supplemental state law negligence claim
9 against all defendants.

10 Dated: August 25, 2010

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GARLAND E. BURRELL, JR.
United States District Judge