IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LEVON D. GRAHAM,

Plaintiff, No. CIV S-07-2291 LKK GGH P

vs.

D.L. RUNNELS, 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 General Order No. 262.

On August 4, 2009, 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 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:

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1. The findings and recommendations filed August 4, 2009, are adopted in full;

2. Defendants' motion to dismiss the complaint as barred by the statute of limitations, filed on October 7, 2008 (docket #13), is denied, and defendants are directed to file an answer within thirty days of the filed date of this order. Should this matter proceed to trial, the limitations defense/equitable tolling may be tried at that time, should it be raised appropriately in pretrial statements.

DATED: September 14, 2009.

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT