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

MALIK JONES,

Plaintiff,

No. CIV S-08-0096 FCD EFB P

vs.

L. BETTI, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On September 8, 2008, the court screened plaintiff’s complaint, found that it did not state cognizable claims against Audetta, Bainbridge, Bishop, David, Deforest, Follosco, Ingwerson, Jackson, Lipton, McGuire, Plainer, Spehling, Vicent or Waterman. The court explained to plaintiff that he either could proceed with his action solely against defendants Betti, Brautingham, Cunningham, Hunter, Lebeck and Callison, or file an amended complaint in an attempt to state a claim also against the other defendants. On April 7, 2009, plaintiff submitted the documents necessary for service on Betti, Brautingham, Cunningham, Hunter, Lebeck and Callison.

The court construes plaintiff’s election to proceed solely against defendants Betti, Brautingham, Cunningham, Hunter, Lebeck and Callison as consent to dismissal of all claims

1 against Audetta, Bainbridge, Bishop, David, Deforest, Follosco, Ingwerson, Jackson, Lipton,
2 McGuire, Plainer, Spehling, Vicent and Waterman

3 Accordingly, it is hereby RECOMMENDED that Audetta, Bainbridge, Bishop, David,
4 Deforest, Follosco, Ingwerson, Jackson, Lipton, McGuire, Plainer, Spehling, Vicent and
5 Waterman be dismissed from this action.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days
8 after being served with these findings and recommendations, any party may file written
9 objections with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
11 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
12 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: April 15, 2009.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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