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

MICHEAL SMITH,

Plaintiff,

No. 2:08-cv-2492-LKK-JFM (PC)

vs.

SGT. R. STOVALL, 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 January 26, 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 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 January 26, 2010, are adopted in full;
2. Defendants' August 20, 2009 motion to dismiss is granted in part;
3. The claims against defendants Oshner, Hawkness, Aurich, Albonico, Weeks, Scouce and Auigriu are dismissed and said defendants are dismissed from this action; and
4. Within ten days from the date of this order defendants Stovall and Lawrence shall answer the claims against them arising from the allegedly inappropriate search and alleged racial bias in searches and seating in the prison dining hall.

DATED: February 23, 2010.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT