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

KARL VANDERVALL,

Plaintiff,

No. CIV S-09-1576 GEB DAD P

vs.

J. FELTNER, 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 19, 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:

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1. The findings and recommendations filed July 19, 2010 are adopted in full;

2. Defendants' December 18, 2009 motion to dismiss (Doc. No. 13) is granted in part and denied in part as follows:

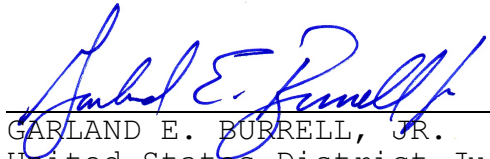
A. Defendants' motion to dismiss plaintiff's complaint as barred by the favorable termination rule is denied;

B. Defendants' motion to dismiss plaintiff's Fourteenth Amendment Due Process claims against defendants Feltner, Machado, Lackner, and Martel is granted;

C. Defendants' motion to dismiss plaintiff's First Amendment retaliation claims against defendants Lackner and Martel is granted; and

D. Defendants' motion to dismiss plaintiff's First Amendment retaliation claims against defendants Feltner and Machado on the grounds of qualified immunity is denied.

Dated: August 25, 2010



GARLAND E. BURRELL, JR.
United States District Judge