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

RAUL JESUS DOMINGUEZ,

Plaintiff,

No. 2:09-cv-1927 KJN P

vs.

JEFF OSGOOD,

Defendant.

ORDER AND

FINDINGS & RECOMMENDATIONS

\_\_\_\_\_ /

Plaintiff is a jail inmate proceeding in forma pauperis and without counsel with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff’s May 6, 2010 amended complaint is before the court.

Plaintiff contends that defendant divulged plaintiff’s name to the press, wrongfully claiming plaintiff is a member of a gang. Plaintiff argues this violated his constitutional rights.

However, defamation alone does not present a cognizable constitutional claim under 42 U.S.C. § 1983, even when done under color of state law. Paul v. Davis, 424 U.S. 693, 701-10 (1976); see also Franklin v. State of Oregon, 662 F.2d 1337, 1344 (9th Cir. 1981) (no subject matter jurisdiction over claim of slander by police officer as no violation of federal right). Damage to reputation alone is not actionable under § 1983 unless it is accompanied by some

1 more tangible interest. Paul, 424 U.S. at 701; see also Patton v. County of Kings, 857 F.2d 1379,  
2 1381 (9th Cir. 1988) (defamation by state actors unrelated to any lost employment unactionable);  
3 Havas v. Thornton, 609 F.2d 372, 375 (9th Cir. 1979) (defamation by government official  
4 unrelated to refusal to hire not actionable).

5 As plaintiff has solely alleged defamation which is not linked to the deprivation of  
6 a federally protected right, no cognizable claim is presented and this action should be dismissed.

7 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the  
8 Court is directed to assign a district judge to this case; and

9 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed  
10 without prejudice.

11 These findings and recommendations are submitted to the United States District  
12 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-  
13 one days after being served with these findings and recommendations, plaintiff may file written  
14 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
15 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
16 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
17 F.2d 1153 (9th Cir. 1991).

18 DATED: August 30, 2010

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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