IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DEAREL GIBSON,

Plaintiff, No. CIV S-09-2388 GEB DAD P

vs.

R.K. WONG, et al.,

Defendants. ORDER

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. On March 23, 2010, the court ordered plaintiff to file an opposition or statement of non-opposition to defendants' February 8, 2010 motion to dismiss. In response, on May 24, 2010, plaintiff filed a "motion to proceed." Construing this motion to be plaintiff's opposition to defendants' motion to dismiss, the court reviewed plaintiff's arguments set forth in his "motion to proceed" and recommended that defendants' motion to dismiss be granted. On July 13, 2010, the assigned district judge to this case adopted the undersigned's findings and recommendations in full.

Accordingly, IT IS HEREBY ORDERED that plaintiff's May 24, 2010 motion to proceed (Doc. No. 24) is denied as moot. In accordance with the assigned district judge's order filed on July 13, 2010, this action shall proceed only against defendants Wong, Fox, and Peck on

plaintiff's Eighth Amendment claim that his administrative segregation cell was ventilated with "ice cold air."

DATED: July 14, 2010.

DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:sj
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