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

XAI XIONG,

No. 2:09-cv-03345-MCE GGH P

Plaintiff,

vs.

ORDER

H. KIRKLAND, et al.

Defendants.

_____ /

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 January 25, 2012, 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 fourteen 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:

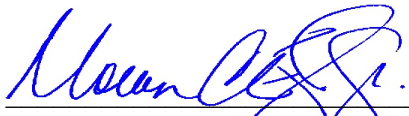
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1. The findings and recommendations filed January 25, 2012 (ECF No. 52), are ADOPTED in full;

2. Defendants' motion for summary judgment is DENIED as to plaintiff's Eighth Amendment claims against all defendants, as to plaintiff's supervisory liability claims against defendant Garate, and as to the cell search retaliation claim against defendant Kirkland; and

3. Defendants' motion for summary judgment is GRANTED as to all remaining claims.

Dated: February 29, 2012


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE