

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN DARNELL EDWARDS,
Plaintiff,
v.
HIGH DESERT STATE PRISON, et al.,
Defendants.

No. 2:10-cv-1264 MCE JFM P

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 August 22, 2013, 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. Plaintiff and defendants have each filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

////

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed August 22, 2013, are ADOPTED in full;
2. Defendants' October 31, 2012 motion for summary judgment is GRANTED in part

and DENIED in part as follows:


a. Any retaliation claim in the third amended complaint is dismissed for failure to state a claim upon which relief may be granted, see 28 U.S.C. § 1915A;

b. Summary judgment is granted for defendant Perez on plaintiff's Fourth Amendment claim and in favor of the remaining defendants with respect on plaintiff's claim of interference with access to the courts; and

c. Summary judgment is denied for defendant Perez on the merits of plaintiff's First Amendment claim, Fourteenth Amendment Due Process claim and on the defense of qualified immunity as to those claims.

3. This matter is referred back to the magistrate judge for further proceedings.

Dated: September 25, 2013



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT