

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

JOHN C. WARD,  
Plaintiff,  
v.  
RICHARD IVES, et al.,  
Defendants.

No. 2:11-cv-1657-GEB-EFB P  
ORDER

Plaintiff, a federal prisoner proceeding pro se, has filed this action alleging a Federal Tort Claims Act (“FTCA”) claim and First Amendment and Eighth Amendment claims under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). 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 September 4, 2014, the Magistrate Judge filed an Order and Findings and Recommendations; the findings and recommendations contained therein concern Defendants United States of America, Jay Salinas, Ryan Binford, and Joe Fieber’s motion to dismiss, (ECF No. 44). The findings and recommendations were served on all parties and contained notice that any objections to the findings and recommendations were to be filed within fourteen days. No objections to the findings and recommendations were filed.

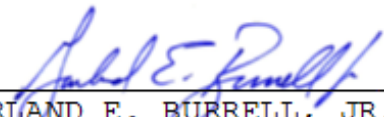
The court has reviewed the file and finds the referenced findings and recommendations to be supported by the record and by the Magistrate Judge’s analysis.

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 September 4, 2014, are adopted in full;
2. Defendants' motion to dismiss, (ECF No. 44), is granted;
3. Plaintiff's FTCA and First Amendment claims are dismissed with prejudice;
4. Plaintiff is granted thirty (30) days from the date on which this order is filed to file a Third Amended Complaint addressing the deficiencies referenced in the September 4, 2014 findings and recommendations on the Eighth Amendment claim alleged against Defendants Salinas, Binford, and Fieber; and
5. Plaintiff is warned that this action may be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) if Plaintiff fails to timely file a Third Amended Complaint.

Dated: September 29, 2014

  
\_\_\_\_\_  
GARIAND E. BURRELL, JR.  
Senior United States District Judge