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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN ALLEN,  
  
                                Plaintiff,  
  
                                v.  
  
T. VIRGA, et al.,  
  
                                Defendants.

No. 2:12-cv-1583 TLN AC

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 June 12, 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 twenty-one 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:

1. The findings and recommendations filed June 12, 2013, are adopted in full;
2. Defendants’ motions to dismiss (ECF Nos. 14 and 22) are denied with prejudice on the ground that the complaint is barred by the statute of limitations;

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3. Defendant's Virga's motion to dismiss for failure to state a claim (ECF No. 14) is granted, but plaintiff is granted leave to amend within twenty-eight days;

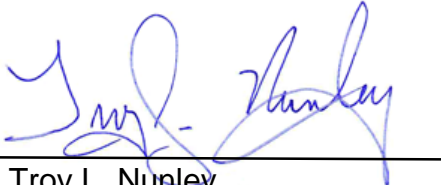
4. Plaintiff is granted leave to amend to state a claim under the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. § 2000cc-1, also within twenty-eight days of the filing date of this order;

5. Defendants' motion to dismiss on grounds of qualified immunity is denied but without prejudice;

6. Plaintiff's claims for prospective injunctive relief as to both defendants is dismissed as moot; and

7. This matter proceeds only on plaintiff's claim for damages.

Dated: September 13, 2013



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Troy L. Nunley  
United States District Judge

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