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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAHER SUAREZ,
Plaintiff,
v.
MATTHEW CATE, et al.
Defendants.

No. 2:12-cv-2048-KJM-EFB 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 13, 2014, the magistrate judge filed findings and recommendations, 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. Both plaintiff and defendants have 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 file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed March 13, 2014 are adopted, except as to
3 defendant White, whom the court finds to have been properly served and joined in the
4 instant motion, (ECF Nos. 30, 31);

5 2. Defendants' July 12, 2013 Motion to Dismiss is granted in part and denied in part:

6 a. Plaintiff's state due process claims under Article 1 sections 7 and 15 of the
7 California Constitution (claim 3) are dismissed without leave to amend;

8 b. Plaintiff's First Amendment right to association claim (claim 5) is dismissed
9 with leave to amend;

10 c. Plaintiff's claim based on a failure to train theory (claim 6) is dismissed with
11 leave to amend;

12 d. Plaintiff's claims are dismissed without leave to amend to the extent they
13 rely solely on the *Castillo* settlement agreement or violations of state prison
14 policies and regulations; and

15 e. Defendants' motion to dismiss is denied with respect to plaintiff's claims under
16 the Due Process and Equal Protection Clauses of the Fourteenth Amendment
17 (claims 1, 2, 4, 7, and 8).

18 3. Plaintiff's motion to reinstate Cate as a defendant (ECF No. 32) is granted to the extent
19 plaintiff seeks to add the current Secretary of the CDCR as a defendant in his official
20 capacity with regard to plaintiff's request for prospective injunctive relief concerning the
21 challenged CDCR policies and procedures plaintiff identifies in his complaint.

22 4. The case is referred back to the magistrate judge assigned to this case for the issuance
23 of an order directing service of the complaint on the Secretary of the CDCR.

24 DATED: June 16, 2014.

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28 UNITED STATES DISTRICT JUDGE