

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

MICHAEL EARL SCOTT,

 Plaintiff,

 v.

TIM VIRGA, et al.,

 Defendants.

No. 2:12-cv-2326 KJM AC 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 18, 2019, 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 twenty-one days. ECF No. 78. After being granted an extension of time (ECF No. 80), plaintiff filed timely objections to the findings and recommendations (ECF No. 81).

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 reviewed the file, the court finds the findings and recommendations to be supported by the record and by proper analysis.¹


¹ The court modifies the sentence beginning at page 13, line 10, of the findings and recommendations, to read as follows: However, the Court also explicitly noted that “The Clause

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 March 18, 2019 (ECF No. 78), are adopted with modification in this order.
2. Plaintiff's motion for summary judgment (ECF No. 72) is denied.
3. Defendants' motion for summary judgment (ECF No. 73) is granted.
4. Judgment is entered for the defendants.
5. The clerk of the court is directed to close this case.

DATED: February 5, 2020.



CHIEF UNITED STATES DISTRICT JUDGE

_____ does not bar admission of a statement so long as the declarant is present at trial to defend or explain it. The Clause also does not bar the use of testimonial statements for purposes other than establishing the truth of the matter asserted[.]” id. at 59 n.9 (citing Tennessee v. Street, 471 U.S. 409, 414 (1985)), which was the exception relied on by the trial court in plaintiff’s case.