

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

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

DAVID HAMILTON,
Plaintiff,
v.
K. SUTTERFIELD, et al.,
Defendants.

No. 2:13-CV-1143-MCE-CMK-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On September 8, 2017, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. ECF No. 43. Timely objections to the findings and recommendations have been filed. ECF No. 45.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), 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.

Accordingly, IT IS HEREBY ORDERED that:

1 1. The findings and recommendations filed September 8, 2017 (ECF No. 43), ARE
2 ADOPTED IN FULL;

3 2. Defendants' motion to dismiss (ECF No. 20) is GRANTED IN PART and
4 DENIED IN PART;

5 3. Plaintiff's due process claim is DISMISSED with prejudice;

6 4. Plaintiff's First Amendment claim is DISMISSED with prejudice;


7 5 Defendants J. Buckard, C. Heintschel, and I. Reyes are DISMISSED with
8 prejudice;

9 6. This action shall proceed on plaintiff's Eighth Amendment claim as against the
10 remaining defendants who shall file an answer to plaintiff's first amended complaint within thirty
11 (30) days of the date of electronic filing of this order; and

12 7. The matter is referred back to the Magistrate Judge for further proceedings.

13 IT IS SO ORDERED.

14 Dated: September 29, 2017

15
16 
17 MORRISON C. ENGLAND, JR.
18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25
26
27
28