

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

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

CARL F. HARRISON,

Plaintiff,

No. 2:12-cv-2000 KJM CKD P

vs.

SERGEANT LINDE, et al.,

Defendants.

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 February 15, 2013, plaintiff filed a motion requesting a court order for access to the law library. On February 25, 2013, the magistrate judge filed findings and recommendations, which were served on both parties and which contained notice to both parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to these findings and recommendations.

On January 3, 2013, defendants Linde and Simpson filed a motion to sever claims. On March 1, 2013, the magistrate judge filed findings and recommendations, which were served on both parties and which contained notice to both parties that any objections to the

1 findings and recommendations were to be filed within fourteen days. Plaintiff has filed
2 objections to these findings and recommendations.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
4 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the file,
5 the court finds the findings and recommendations generally to be supported by the record and by
6 the proper analysis. However, dismissal of plaintiff's Eighth Amendment claims is not required
7 as unrelated claims may be severed into separate lawsuits. *Coughlin v. Rogers*, 130 F.3d 1348,
8 1350 (9th Cir. 1997). *See, e.g., Hernandez v. United States*, 802 F. Supp. 2d 834, 847 (W.D.
9 Tex. 2011) (severing unrelated claims into separate suits); *Baughman v. Lee County, MS*, 554 F.
10 Supp. 2d 652, 655 (N.D. Miss. 2008) (same). The court finds such a severance will achieve
11 judicial efficiency and serve the interests of justice.

12 Accordingly, IT IS HEREBY ORDERED that:

13 1. The findings and recommendations filed February 25, 2013 (Dkt. No. 30) and
14 the findings and recommendations filed March 1, 2013 (Dkt. No. 36) are adopted in full, except
15 as ordered below;

16 2. Plaintiff's motion for law library access (Dkt. No. 29) is DENIED;

17 3. Defendant's motion to sever (Dkt. No. 22) is GRANTED;

18 4. The claims in 12-cv-02000 shall be severed into two separate actions. The
19 current case number shall remain assigned to the claims against defendants DeBoard and Lopez.
20 The Clerk of Court is directed to assign a new case number for the claims against defendants
21 Simpson and Linde, and assign the same district judge and magistrate judge as in this action.
22 The filings from 12-cv-02000 shall be included on the dockets of each case; and

23 5. The Clerk of the Court shall make an adjustment in the assignment of civil
24 cases to compensate for the new cases filed as ordered above.

25 DATED: July 25, 2013.

26 
UNITED STATES DISTRICT JUDGE