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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THADDEUS BOUDREAUX,  
Plaintiff,  
v.  
MATTHEW CATE, et al.,  
Defendants.

No. 2:14-cv-0997 GEB DB 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 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 6, 2017, 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 fourteen days. 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 entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

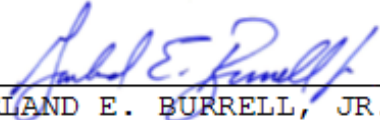
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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed February 6, 2017 (ECF No. 40) are adopted in full;
2. Defendants' Motion to Dismiss (ECF No. 28) is granted in part and denied in part;
  - a. Plaintiff's claims against defendants in their official capacities are dismissed;
  - b. Plaintiff's claims against defendants for violation of the Eighth Amendment are dismissed without prejudice; and
  - c. Each defendant's motion to dismiss is denied with respect to plaintiff's equal protection claims and with respect to each defendant's assertion of qualified immunity.
3. Within thirty days from the date of this order, plaintiff shall file a Third Amended Complaint;
4. If plaintiff fails to file a timely Third Amended Complaint, this case will proceed on plaintiff's equal protection claims set out in the Second Amended Complaint; and
4. Plaintiff's October 14, 2016 Motion to Stay (ECF No. 35) is denied as moot; and
5. Defendants' Motion to Strike (ECF No. 37) is denied.

Dated: March 7, 2017

  
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GARIAND E. BURRELL, JR.  
Senior United States District Judge