

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

RODNEY ALEXANDER LANE, JR.,

Plaintiff,

v.

F. ALI, et al.,

Defendants.

No. 2:18-cv-1564 KJM KJN 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 February 19, 2020, 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. Plaintiff has filed objections to the findings and recommendations, ECF No. 38, and defendant R. Johnson has filed a response, ECF No. 39.

The magistrate judge recommended that defendant’s motion to dismiss be granted as to plaintiff’s claim alleging deprivation of personal property. The magistrate judge also found that plaintiff raised a claim for deprivation of the right to self-representation. The magistrate judge recommended that this second claim be dismissed pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994).

1 In his objections, plaintiff clarifies that he is not raising a claim alleging deprivation of his  
2 right to self-representation. Plaintiff alleges that he is only challenging the deprivation of his  
3 personal property. Accordingly, the undersigned need only consider the section of the findings  
4 and recommendations addressing plaintiff's claim alleging deprivation of personal property.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
6 court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the  
7 findings and recommendations to be supported by the record and by the proper analysis.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The findings and recommendations filed February 19, 2020, are adopted as to  
10 plaintiff's claim alleging deprivation of personal property;

11 2. Defendant's motion to dismiss (ECF No. 23) is granted as to plaintiff's claim that  
12 defendant Johnson violated his right to due process when he allegedly stole plaintiff's personal  
13 property;

14 3. Defendant's motion to dismiss is denied in all other respects; and

15 4. This action is dismissed. The Clerk of Court is directed to close this case.

16 DATED: September 29, 2020.

17  
18   
19 \_\_\_\_\_  
20 CHIEF UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28