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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

STANFORD P. BRYANT,

Plaintiff,

vs.

T. ARMSTRONG, et al.,

Defendants.

CASE NO. 08-CV-2318 W (RBB)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION
[DOC. 117], (2) GRANTING IN
PART AND DENYING IN PART
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT [DOC.
91], AND (3) DENYING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT [DOC.
92]**

On December 12, 2008, Plaintiff Stanford Paul Bryant, a state prisoner proceeding pro se and in forma pauperis, filed a Complaint pursuant to 42 U.S.C. § 1983 [Doc. 1]. On March 3, 2009, he filed a First Amended Complaint [Doc. 3]. The ten named Defendants moved to dismiss Plaintiff's First Amended Complaint [Doc. Nos. 15, 18]. This Court issued an order adopting Magistrate Judge Ruben B. Brooks' Report and Recommendation to Grant in Part and Deny in Part Defendants' Motion to Dismiss Plaintiff's First Amended Complaint [Doc. Nos. 27, 37].

On June 23, 2010, Plaintiff filed a Second Amended Complaint [Doc. No. 39]. All ten Defendants moved to dismiss the Second Amended Complaint [Doc. No. 40],

1 which was granted in part and denied in part [Doc. Nos. 46-47]. The six remaining
2 Defendants– Armstrong, Catlett, Janda, Lizarraga, Ochoa, and Trujillo– filed their
3 Answer [Doc. No. 49].

4 On December 23, 2011, Defendants filed their Motion for Summary Judgment
5 [Doc. No. 91]. On the same day, Plaintiff filed his own Motion for Summary Judgment
6 [Doc. No. 92]. Plaintiff and Defendants both oppose [Doc. No. 96, 101]. On August
7 3, 2012, United States Magistrate Judge Ruben B. Brooks issued a Report and
8 Recommendation (the “Report”) recommending that Defendants’ Motion for Summary
9 Judgment be granted in part and denied in part. (*Report* 3 [Doc. 117].) The Report also
10 recommended that Plaintiff’s Motion for Summary Judgment be denied. (*Id.*) In
11 addition, the Report ordered the parties to file written objections by August 29, 2012,
12 and any reply to the objections by September 12, 2012. (*Id.*) On August 29, 2012,
13 Defendants filed an Objection to the Report’s recommendations [Doc. 118].

14 Pursuant to Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. §
15 636(b)(1), the Court “must make a *de novo* determination of those portions of the
16 report . . . to which objection is made,” and “may accept, reject, or modify, in whole or
17 in part, the findings or recommendations made by the magistrate [judge].” 28 U.S.C.
18 § 636(b)(1); see also United States v. Remsing, 874 F.2d 614, 617 (9th Cir. 1989).
19 Having conducted a *de novo* review of the Report, the Court concludes that Judge
20 Brooks issued an accurate Report and well-reasoned recommendation that the
21 Defendant’s Motion for Summary Judgment be granted in part and denied in part and
22 Plaintiff’s Motion for Summary Judgment be denied. Accordingly, the Court **ADOPTS**
23 the Report [Doc. No. 117] in its entirety, **GRANTS in part** and **DENIES in part**
24 Defendants’ Motion for Summary Judgment [Doc. No. 91], **DENIES** Plaintiff’s Motion
25 for Summary Judgment [Doc. No. 92], and **ORDERS AS FOLLOWS**:

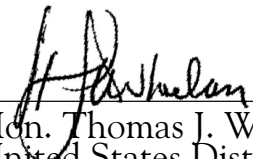
- 26 1. With respect to the equal protection cause of action in count one against
27 Defendant Armstrong on a class-of-one theory, Defendant Armstrong’s
28 Motion for Summary Judgment is **GRANTED**.

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2. With respect to the retaliation cause of action in count three, Defendant Armstrong's Motion for Summary Judgment is **GRANTED**.
3. With respect to the retaliation cause of action in count three, Defendant Ochoa's Motion for Summary Judgment is **GRANTED**.
4. With respect to the retaliation cause of action in count three, Defendant Janda's Motion for Summary Judgment is **GRANTED**.
5. Defendants' Motion for Summary Judgment in all other respects is **DENIED**.
6. Plaintiff's Motion for Summary Judgment is **DENIED**.

IT IS SO ORDERED.

DATED: March 11, 2013



Hon. Thomas J. Whelan
United States District Judge