

1 in its entirety. (“R&R,” ECF No. 75.) Judge Montenegro ordered any objections to be
2 filed within thirty days of the issuance of the R&R. (*Id.* at 23.) Plaintiff requested, and the
3 Court granted, a 30-day extension in which to file objections. (ECF Nos. 80, 81.) Despite
4 the extension, no objections have been filed.

5 Having reviewed the briefing on the motion to dismiss and Judge Montenegro’s
6 R&R, the Court **ADOPTS** the R&R.

7 **I. BACKGROUND**

8 Judge Montenegro’s R&R contains a thorough and accurate recitation of the factual
9 and procedural histories underlying the instant motion. (R&R at 1–3.) This Order
10 incorporates by reference the background as set forth therein.

11 **II. LEGAL STANDARD**

12 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district
13 court’s duties regarding a magistrate judge’s report and recommendation. The district court
14 “shall make a de novo determination of those portions of the report . . . to which objection
15 is made,” and “may accept, reject, or modify, in whole or in part, the findings or
16 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(c); *see also*
17 *United States v. Raddatz*, 447 U.S. 667, 673–76 (1980). In the absence of a timely
18 objection, however, “the Court need only satisfy itself that there is no clear error on the
19 face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory
20 committee’s note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

21 **III. ANALYSIS**

22 Plaintiff alleges Defendant Stratton mishandled Plaintiff’s grievance and a citizen’s
23 complaint filed by Plaintiff’s family member. (Second Amended Complaint, ECF No. 46,
24 ¶¶ 7, 18, 21.) Plaintiff alleges by “fail[ing] to process Plaintiff’s grievance” and in making
25 false statements in response to the citizen’s complaint, Stratton deprived Plaintiff of his
26 Fourteenth Amendment due process rights, First Amendment right to petition for redress,
27 equal protection rights, Eighth Amendment right to be free from cruel and unusual
28

1 punishment, and also violated the Religious Land Use and Institutionalized Persons Act
2 (“RLUIPA”). (*Id.* ¶¶ 31, 32.)

3 **A. Due Process Cause of Action**

4 It is not entirely clear how Plaintiff alleges Stratton violated Plaintiff’s due process
5 rights. To the extent Plaintiff alleges Stratton violated Plaintiff’s due process rights by
6 mishandling a grievance, Judge Montenegro found that “[t]he improper handling of
7 grievances is not a cognizable due process claim.” (R&R at 5.) The Court agrees. *See*
8 *Wise v. Wash. State Dep’t of Corr.*, 244 F. App’x. 106, 108 (9th Cir. 2007) (“An inmate
9 has no due process rights regarding the proper handling of grievances.”). Further, to the
10 extent Plaintiff alleges Stratton violated Plaintiff’s rights through a deprivation of his
11 property, Judge Montenegro found that because Plaintiff has adequate postdeprivation
12 remedies, his rights were not violated. The Court analyzed this issue in its prior order as it
13 relates to two other Defendants. (ECF No. 79, at 4.) The same result applies here. Because
14 Plaintiff had access to, and in fact used, an adequate postdeprivation remedy after the
15 confiscation of the rune set, there was no violation of Plaintiff’s due process rights.
16 Therefore, the Court **ADOPTS** the R&R and **GRANTS** Defendant’s motion to dismiss
17 this claim.

18 **B. Remaining Causes of Action**

19 Plaintiff concedes that certain causes of action may be dismissed: his RLUIPA, First
20 Amendment, equal protection, and Eighth Amendment claims. (R&R at 7–8 (citing ECF
21 No. 69, at 4).) Therefore the Court **ADOPTS** the R&R and **GRANTS** Defendant’s motion
22 to dismiss these claims.

23 **C. Leave to Amend**


24 Judge Montenegro recommends dismissing Plaintiff’s claims with prejudice because
25 allowing Plaintiff to amend his claims would be futile. (R&R at 9.) Judge Montenegro
26 determined leave to amend would be futile because Plaintiff agrees to the dismissal of four
27 of his claims and his remaining claim is barred by law. The Court agrees.
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1 **IV. CONCLUSION**

2 For the foregoing reasons, the Court **ADOPTS** the R&R, (ECF No. 75) and
3 **GRANTS** Defendant Stratton's motion to dismiss, (ECF No. 62). Because this concludes
4 the litigation, the clerk is instructed to close the file.

5 **IT IS SO ORDERED.**

6 **DATED: July 30, 2019**

7 
8 **Hon. Cynthia Bashant**
9 **United States District Judge**