

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

CHRIS GRINDLING ,) CV 16-00424 ACK-KJM
)
 Plaintiff,)
)
 vs.)
)
 MICHEAL DIANA and LOT)
 KULUAU ,)
)
 Defendants.)
)

ORDER ADOPTING IN PART AND MODIFYING IN PART MAGISTRATE
JUDGE'S FINDINGS AND RECOMMENDATION

Findings and Recommendation having been filed and served on all parties on September 12, 2016, and no objections having been filed by any party,

IT IS HEREBY ORDERED AND ADJUDGED that, pursuant to Title 28, United States Code, Section 636(b)(1)(C) and Local Rule 74.2, the "Findings and Recommendation to Deny the Application to Proceed In Forma Pauperis and to Dismiss the Complaint With Leave to Amend" ("F&R"), as modified herein, Docket No. 5, are adopted as the opinion and order of this Court.¹

¹The title of the F&R improperly indicates that the entire Complaint is dismissed with leave to amend. The Court modifies the F&R to clarify that the Prison Rape Elimination Act claims, along with the due process claim related to the confiscation of Plaintiff's items, a cause of action the Magistrate Judge discerns from the Complaint, are dismissed with prejudice.

Furthermore, the Court modifies the F&R to allow Plaintiff to assert pendent state claims of theft with respect to his property being taken, as well as assault and battery with respect to his sexual harassment claims (assuming that federal

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 17, 2016.



Alan C. Kay
Alan C. Kay
Sr. United States District Judge

jurisdiction is established; otherwise, Plaintiff may file those claims in state court).