UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN MCCLINTOCK,

Plaintiff,

v.

G. VALENCIA, et al.,

Defendants.

No. 2:22-cv-1884 KJM CSK P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se. In his civil rights complaint, plaintiff raised fourteen claims against seventeen defendants. On May 23, 2024, the district court ordered that this case proceeds on the following claims: (1) First Amendment retaliation claims as to defendants G. Valencia, L. Cantu and T. Cooper (claims one, two and ten); (2) Plaintiff's claim that defendants Weaver, Luther and Hadden confiscated and destroyed a box of plaintiff's legal materials in retaliation for plaintiff pursuing litigation as evidenced by the materials in the box that were clearly labeled (claims five, six and seven); and (3) Plaintiff's claim that in August of 2020, defendants J. Cantu, Vega, Sgt. T. Coker, and Lt. J. Charon[1] violated plaintiff's rights by orchestrating the placement of a violent and unstable Level IV inmate into plaintiff's cell, failing to protect plaintiff from harm (claims three, eight, and nine). (ECF No. 20 at 3.) The district

[1] Lt. J. Charon was inadvertently referred to as Lt. J. Caron. (ECF No. 20 at 3.)

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

court dismissed plaintiff's remaining claims and subclaims with leave to amend within thirty days. (Id.) Thirty days have now passed, and plaintiff has not filed an amended complaint, or otherwise responded to the district court's order.

Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's remaining claims and subclaims not specifically identified above, including plaintiff's claims four, eleven, twelve, thirteen, and fourteen, as well as defendants G. McCarthy, J. Austin, Lt. Mercado, Sgt. Mohr, R. Covello, R. Diaz, and K. Allison, are dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: July 1, 2024

CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

/1/mccl1884.fta