

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Samuel Samson Guzman v. R. Valdez, M. Jimenez, V. Cuevas, and
Scott Frauenheim

Guzman v. Valdez · No. 1:21-cv-00621-KES-HBK (PC) · Decided September 22, 2025

SUMMARY

The United States District Court for the Eastern District of California partially adopts and partially declines to adopt a magistrate judge’s findings and recommendations in Samuel Samson Guzman’s 42 U.S.C. § 1983 action. The court dismisses the Eighth Amendment claim, permits the First Amendment retaliation claim against defendants R. Valdez and M. Jimenez to proceed, and refers the Fourteenth Amendment due process claim back to the magistrate judge for further consideration as to each defendant. The claims arise from an allegedly retaliatory rules violation report concerning an STG-related symbol and alleged lack of notice that the symbol was prohibited.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 22, 2025
DOCKET	1:21-cv-00621-KES-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's findings and recommendations recommending dismissal of his third amended 42 U.S.C. § 1983 complaint for failure to state a claim. The district court conducted de novo review, adopted the recommendation as to the Eighth Amendment claim, declined to adopt it as to the First Amendment retaliation and Fourteenth Amendment due process claims, and referred the due process claim for further defendant-specific findings.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1); at the pleading stage, allegations were viewed in the light most favorable to plaintiff and assessed for plausibility.

PRECEDENTIAL VALUE	Unpublished federal district court order; nonprecedential and persuasive only
PARTIES	Samuel Samson Guzman v. R. Valdez, M. Jimenez, V. Cuevas, Scott Frauenheim

TOPICS

section 1983 prisoners rights first amendment due process pleadings

PRACTICE AREAS

civil rights prisoner litigation constitutional litigation federal civil procedure

QUESTIONS PRESENTED

1. Whether the third amended complaint plausibly stated a First Amendment retaliation claim based on defendants' issuance of an STG-related RVR after Guzman filed a grievance.
2. Whether the third amended complaint plausibly stated a Fourteenth Amendment procedural due process claim based on the alleged lack of fair notice that a butterfly had become a prohibited STG symbol.
3. Whether the third amended complaint stated an Eighth Amendment claim.

HOLDINGS

1. The third amended complaint plausibly stated a First Amendment retaliation claim against Valdez and Jimenez. Although issuing an RVR for STG behavior may ordinarily advance a legitimate correctional goal, the alleged suspicious timing, asserted retaliatory motive, and alleged inconsistent use of disciplinary measures were sufficient at the pleading stage to plausibly show that the action did not reasonably advance a legitimate correctional goal.
2. The third amended complaint plausibly stated a procedural due process claim based on the alleged absence of fair notice that a butterfly was a newly certified STG symbol. The matter was referred back to the magistrate judge for further findings concerning whether the claim was sufficiently pleaded against each defendant.
3. The Eighth Amendment claim was dismissed for failure to state a claim because the third amended complaint alleged no facts supporting such a violation.

KEY QUOTATIONS

“That an inmate is subjected to treatment that is consistent with an otherwise legitimate policy does not bar a First Amendment retaliation claim where that policy is enforced against the inmate with retaliatory intent.”
(at 6)

“It is clearly established, both by common sense and by precedent, that due process requires fair notice of what conduct is prohibited before a sanction can be imposed.” (at 12)

“Viewing the TAC in the light most favorably to plaintiff, as the Court is required to do at this stage, plaintiff has adequately alleged that his due process rights were violated as he allegedly did not receive fair notice of the prohibited conduct prior to being sanctioned for such conduct.” (at 14)

FACTUAL BACKGROUND

Guzman alleged that defendants searched his cell on July 13, 2020, confiscated an image depicting an Angel and Butterfly, and issued him a Rules Violation Report for Security Threat Group activity on July 23, 2020. He alleged that he filed a grievance concerning the cell search on July 20, 2020, and that the RVR was issued in retaliation for that grievance. He also alleged that the butterfly had recently become a certified STG symbol, that the new classification had not been disseminated to the incarcerated population, and that he lacked notice of the rule before being sanctioned.

PROCEDURAL HISTORY

Guzman filed his complaint on April 14, 2021, and amended it three times. The magistrate judge screened the first and second amended complaints under the Prison Litigation Reform Act and granted leave to amend after finding them deficient. After screening the third amended complaint, the magistrate judge recommended dismissal without further leave to amend. Following Guzman's objections, the district court reviewed the matter de novo and adopted the recommendation in part and declined it in part.

DISPOSITION

other

REMAND INSTRUCTIONS

The findings and recommendations were adopted in part and declined in part. The First Amendment retaliation claim proceeds against Valdez and Jimenez. The Fourteenth Amendment due process claim was referred back to the magistrate judge for further findings regarding the extent to which it was sufficiently pleaded against each defendant, along with other proceedings consistent with the order.

CASES CITED

- Brodheim v. Cry, 584 F.3d 1262, 1269, 1272 (9th Cir. 2009)
- Rhodes v. Robinson, 408 F.3d 559, 567-68 (9th Cir. 2005)
- Venegas v. Bianco, Case No. 5:19-cv-01557-JLS-SHK, 2025 WL 747852, at *2 (C.D. Cal. Mar. 6, 2025)
- Denton v. Bibb, Case No. 1:19-cv-00316-ADA-EPG (PC), 2023 WL 5155787, at *10 (E.D. Cal. Aug. 10, 2023), recommendation adopted, 2025 WL 495819 (E.D. Cal. Feb. 14, 2025)
- Johnson v. Ryan, 55 F.4th 1167, 1202 (9th Cir. 2022)
- Bruce v. Ylst, 351 F.3d 1283, 1288-89 (9th Cir. 2003)
- Prison Legal News v. Ryan, 39 F.4th 1121, 1128 (9th Cir. 2022)
- Turner v. Safley, 482 U.S. 78 (1987)
- Jones v. Slade, 23 F.4th 1124, 1137 (9th Cir. 2022)

- Daniels v. Baer, No. 22-16664, 2025 WL 1794430, at *2 (9th Cir. 2025)
- Ingram v. Sterling, Case No. 3:14-cv-02691-GPC-DHB, 2016 WL 1211999, at *9 (S.D. Cal. Mar. 29, 2016)
- McCollum v. California Department of Corrections and Rehabilitation, 647 F.3d 870, 882 (9th Cir. 2011)
- Solomon v. Felker, No. 2:08-cv-02544 JFM P, 2013 WL 5375538, at *12 (E.D. Cal. Sept. 24, 2013)
- Lovell v. Poway Unified School District, 90 F.3d 367, 370 (9th Cir. 1996)
- Newell v. Sauser, 79 F.3d 115, 117-18 (9th Cir. 1996)
- Grayned v. City of Rockford, 408 U.S. 104, 108 (1972)
- Williams v. Nix, 1 F.3d 712, 716 (8th Cir. 1993)
- Radi v. McCormick, 978 F.2d 715 (Table), at *1 (9th Cir. 1992)
- Schenck v. Edwards, 133 F.3d 929 (Table), at *1 (9th Cir. 1998)
- Anderson v. Crosby, No. 5:04CV164SPMMD, 2005 WL 3357220, at *4 (N.D. Fla. Mar. 25, 2005)
- Reeves v. Peetcox, 19 F.3d 1061 (5th Cir. 1994)

OPINION

Valdez

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 SAMUEL SAMSON GUZMAN, Case No. 1:21-cv-00621-KES-HBK (PC) 12 Plaintiff,
ORDER ADOPTING IN PART AND

DECLINING IN PART FINDINGS AND

13 v. RECOMMENDATIONS

14 R. VALDEZ, M. JIMENEZ, V. CUEVAS, Docs. 17, 19

and SCOTT FRAUENHEIM, 15 Defendants. 16 17 Plaintiff Samuel Samson Guzman is a state
prisoner proceeding pro se and in forma 18 pauperis on his third amended complaint (“TAC”) filed
pursuant to 42 U.S.C. § 1983. Doc. 17. 19 The matter was referred to a United States magistrate
judge pursuant to 28 U.S.C. § 636(b)(1)(B) 20 and Local Rule 302. 21 Plaintiff initiated this case
by filing a complaint on April 14, 2021, Doc. 1, and filed a first 22 amended complaint on April
26, 2021, Doc. 5. Pursuant to the Prison Litigation Reform Act, 28 23 U.S.C. § 1915A, the
assigned magistrate judge screened the first amended complaint, found it 24 failed to state a claim,
and granted plaintiff leave to amend. Doc. 10. Thereafter, plaintiff filed a 25 second amended
complaint on September 11, 2023. Doc. 11. The assigned magistrate judge 26 screened the second
amended complaint, found that it also failed to state a claim, and granted 27 plaintiff further leave
to amend. Doc. 12. On May 1, 2024, plaintiff filed his TAC. Doc. 17. 28 1 On June 3, 2024, the
assigned magistrate judge issued findings and recommendations 2 finding the TAC fails to state a
cognizable claim under the First Amendment, Eighth 3 Amendment, or Fourteenth Amendment
and recommending that plaintiff’s TAC be dismissed 4 without further leave to amend. Doc. 19

("F&R"). Specifically, as to plaintiff's retaliation claim 5 under the First Amendment, the findings and recommendations noted doubt as to whether 6 plaintiff had adequately pleaded a causal connection between plaintiff filing a grievance against 7 defendants and defendants filing an Rules Violation Report ("RVR") against plaintiff, but held 8 that, regardless, plaintiff's retaliation claim failed because issuing an RVR for Security Threat 9 Group ("STG") behavior "advanced the legitimate correctional goal of discouraging STG 10 behavior and ensuring compliance with prison regulations." Id. at 5. As for plaintiff's Fourteenth 11 Amendment due process claim, the magistrate judge held that plaintiff failed to articulate a liberty 12 interest that implicates procedural due process protections, but "[e]ven if the RVR for STG 13 behavior triggered [p]laintiff's due process rights, the TAC fails to allege that prison staff violated 14 any recognized right" because "federal due process did not require that [p]laintiff be notified of 15 new prison regulations before he could be charged with violating them." Id. at 8–9. Finally, the 16 findings and recommendations noted that, though listed as a cause of action, plaintiff did not put 17 forth any facts to support an Eighth Amendment claim. Id. at 5 n.3. Plaintiff timely filed 18 objections to the findings and recommendations. Doc. 20. 19 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a de 20 novo review of this case. Having carefully reviewed the file, the Court declines to adopt the 21 findings and recommendations insofar as they recommend dismissing plaintiff's First 22 Amendment retaliation claim and Fourteenth Amendment due process claim. The findings and 23 recommendations are adopted as to plaintiff's Eighth Amendment claim. 24 The Ninth Circuit has "set forth the five basic elements of a 'viable claim of First 25 Amendment retaliation' in the prison context": "(1) An assertion that a state actor took some 26 adverse action against an inmate (2) because of (3) that prisoner's protected conduct, and that 27 such action (4) chilled the inmate's exercise of his First Amendment rights, and (5) the action did 28 not reasonably advance a legitimate correctional goal." *Brodheim v. Cry*, 584 F.3d 1262, 1269 1 (9th Cir. 2009) (citing *Rhodes v. Robinson*, 408 F.3d 559, 567–68 (9th Cir. 2005)). 2 In his objections, plaintiff argues that the magistrate judge erred in finding he had not 3 properly pleaded the fifth element and could not proceed on his retaliation claim against 4 defendants R. Valdez and M. Jimenez. Doc. 20 at 2. Plaintiff argues that Valdez's and Jimenez's 5 "retaliatory action [of issuing an RVR] did not advance a legitimate correctional goal" because 6 their "disciplinary method was un[n]ecessary and severe" and they failed to follow procedure 7 under section 3312 of Title 15 of the California Code of Regulations, which provides that 8 "[w]hen verbal counseling achieves corrective action, a written report of the misconduct or 9 counseling is unnecessary." Id. Plaintiff argues that lesser consequences are typically imposed 10 for the alleged conduct and analogizes his infraction and Valdez's and Jimenez's response to an 11 "RVR for destruction of state property for a ripped sheet in response to a grievance," alleging that 12 "RVR's of this nature are used/issued to chill or silence the inmate population from filing 13 grievances." Id. He states that "[v]erbal counseling would have educated plaintiff about the new 14 rule and the newest STG certified symbol which plaintiff was unaware of. Instead[,] defendants 15 skipped to

punitive measures[.] [T]hus[,] their actions were arbitrary, retaliatory, and improper.” 16 Though an allegation that correctional officers failed to adhere to the prison’s regulations 17 or policies does not form the basis of a constitutional violation on its own,¹ the enforcement of 18 such regulations or policies with retaliatory intent may state a claim. “That an inmate is subjected 19 to treatment that is consistent with an otherwise legitimate policy does not bar a First Amendment 20 retaliation claim where that policy is enforced against the inmate with retaliatory intent.” 21 *Venegas v. Bianco*, Case No. 5:19-cv-01557-JLS-SHK, 2025 WL 747852, at *2 (C.D. Cal. Mar. 22 6, 2025); see also *Denton v. Bibb*, Case No. 1:19-cv-00316-ADA-EPG (PC), 2023 WL 5155787, 23 at *10 (E.D. Cal. Aug. 10, 2023), recommendation adopted 2025 WL 495819 (E.D. Cal. Feb. 14, 24 2025) (collecting cases noting the same). “When [a policy is] enforced with retaliatory intent, the 25 1 See, e.g., *Solomon v. Felker*, No. 2:08-cv-02544 JFM P, 2013 WL 5375538, at *12 (E.D. Cal. Sept. 24, 2013) (“Plaintiff’s allegation that the defendants failed to adhere to the prison’s own 26 institutional policies and procedures does not, by itself” give rise to a constitutional violation); 27 *Lovell v. Poway Unified School Dist.*, 90 F.3d 367, 370 (9th Cir. 1996) (“[t]o the extent that the violation of a state law amounts to the deprivation of a state-created interest that reaches beyond 28 that guaranteed by the federal Constitution, section 1983 offers no redress.”). 1 policy cannot be said to “reasonably advance a legitimate correctional goal.” *Venegas*, 2025 WL 2 747852, at *2 (citing *Rhodes*, 408 F.3d at 567-68). Thus, though prisons clearly “have a 3 legitimate interest in stopping prison gang activity,” such a general justification cannot defeat a 4 plaintiff’s retaliation claim where the plaintiff has put forth evidence that the use of the 5 procedures was pretextual and the adverse action was taken with a retaliatory motive. See 6 *Johnson v. Ryan*, 55 F.4th 1167, 1202 (9th Cir. 2022) (citing *Bruce v. Ylst*, 351 F.3d 1283, 1289 7 (9th Cir. 2003)). 8 Moreover, the Ninth Circuit has instructed that when analyzing the fifth element of a 9 retaliation claim, courts should consider the four factors set forth in *Turner v. Brodheim v. Cry*, 10 584 F.3d 1262, 1272 (9th Cir. 2009) (citing *Turner v. Safley*, 482 U.S. 78 (1987)). That is, courts 11 should analyze whether there is a valid and rational connection between the prison regulation and 12 the asserted goal, whether there are “alternative means of exercising the right” available to 13 inmates, “the impact accommodation of the asserted constitutional right will have on guards and 14 other inmates, and on the allocation of prison resources generally,” and the absence of “ready 15 alternatives available” to the prison for achieving the government’s goals. *Id.* Where a plaintiff 16 brings an as-applied claim, as here, the court should consider “whether applying the regulation” 17 to the plaintiff “was rationally related to the legitimate penological interest asserted by the 18 prison.” *Prison Legal News v. Ryan*, 39 F.4th 1121, 1128 (9th Cir. 2022). 19 Here, viewing the matter in the light most favorable to the plaintiff, as the Court must at 20 this stage, plaintiff has adequately alleged that defendants utilized the prison’s policies not for a 21 legitimate correctional goal, but rather, to retaliate against plaintiff for filing a grievance against 22 them, given the suspicious timing surrounding when the STG symbol was discovered in plaintiff’s 23 cell, when plaintiff filed the grievance against defendants for the cell search, and

when defendants 24 issued the RVR for STG activity against plaintiff. Additionally, viewing the complaint in the 25 light most favorable to plaintiff, plaintiff alleges that prison officials typically use other means of 26 achieving the government's goal of curtailing gang activity when addressing STG certified 27 symbols. *Jones v. Slade*, 23 F.4th 1124, 1137 (9th Cir. 2022) (“[U]nequal application” of “an 28 otherwise legitimate policy” can “defeat[] the rational relationship between the policy and the 1 government’s asserted justification.”); see also *Daniels v. Baer*, No. 22-16664, 2025 WL 2 1794430, at *2 (9th Cir. 2025) (reversing dismissal for failure to state a claim for retaliation and 3 finding plaintiff’s “allegations of inconsistent application [were] sufficient to survive the pleading 4 stage”). 5 Plaintiff has adequately pleaded the remaining elements of a retaliation claim. Filing a 6 grievance is protected activity. See *Rhodes*, 408 F.3d at 567. An RVR for STG is an adverse 7 action. See, e.g., *Ingram v. Sterling*, Case No. 3:14-cv-02691-GPC-DHB, 2016 WL 1211999, at 8 *9 (S.D. Cal. Mar. 29, 2016). As noted above, viewed in the light most favorable to plaintiff, 9 plaintiff has alleged a causal connection between his filing of a grievance and the RVR that was 10 issued against him. See F&R (“A retaliatory motive may be shown by the timing of the allegedly 11 retaliatory act or other circumstantial evidence, as well as direct evidence.” (citing *Bruce*, 351 12 F.3d at 1288–89; then citing *McCollum v. Ca. Dep’t of Corr. And Rehab.*, 647 F.3d 870, 882 (9th

13 Cir. 2011))). Specifically, plaintiff has alleged that defendants searched his cell on July 13, 2020,

14 and “a copy of an Angel & Butterfly was confiscated.” TAC 3. Seven days later, on July 20, 15 2020, plaintiff filed a grievance against defendants “based on the arbitrary nature of the cell 16 search.” *Id.* Three days after plaintiff filed the grievance, and ten days after the cell search and 17 confiscation, on July 23, 2020, defendants filed an RVR for STG activity. *Id.* at 3-4. The 18 magistrate judge indicated that “[i]t is not obvious to the Court whether a gap of 10 days between 19 discovering evidence of an RVR and the filing of a RVR is significant to suggest that it was only 20 filed in response to [p]laintiff’s grievance” and that “the Court could reasonably infer that the July 21 23, 2020 RVR was simply issued in response to the discovery of the STG-related imagery on July 22 13, 2020, making the timing not suspicious at all.” F&R 5. While the burden will ultimately rest 23 with plaintiff to prove his case by a preponderance of the evidence, he need not make such 24 showing now; at this stage, the Court need only view the evidence in the light most favorable to 25 plaintiff and determine if plaintiff has plausibly stated his claim. The Court finds that plaintiff 26 has plausibly pleaded facts to indicate a causal connection between his filing of his grievance and 27 the issued RVR given defendants’ 10-day delay in issuing an RVR following the conduct. 28 Finally, the issuance of an RVR in response to filing a grievance would chill or silence a person 1 of ordinary firmness from filing additional grievances.² For these reasons, plaintiff shall be 2 allowed to proceed on his retaliation claim against defendants Valdez and Jimenez. 3 Plaintiff also objects to the conclusion of the findings and recommendation that plaintiff 4 failed to state a due process violation claim under the Fourteenth Amendment. Doc. 20

at 2-3. 5 Specifically, plaintiff disputes the magistrate judge’s finding that he has not sufficiently 6 implicated a liberty interest given that “the RVR for STG behavior will reflect negatively [for 7 parole hearings] and [he] may receive a 5 year denial for parole.” Id. at 3. He also reiterates his 8 allegation in his TAC that the prison did not disseminate information that a butterfly was a newly 9 certified symbol in violation of a section 3378.1(f)(3)(A) of title 15 of the California Code of 10 Regulations and that he did not know at the time that the butterfly was a certified STG symbol.

11 Id. at 2. Plaintiff’s TAC indicates “[he] had never seen a memo for a newly certified symbol of a

12 butterfly anywhere on the facility,” that “[d]uring COVID the law library was closed,” and that 13 “the information was never disseminated to the general population by . . . the librarians.” TAC 4. 14 “It is clearly established, both by common sense and by precedent, that due process 15 requires fair notice of what conduct is prohibited before a sanction can be imposed.” *Newell v. 16 Sauser*, 79 F.3d 115, 117 (9th Cir. 1996) (citing *Grayned v. City of Rockford*, 408 U.S. 104, 108 17 (1972)). “This principle applies within the prison setting.” See, e.g., *Williams v. Nix*, 1 F.3d 712, 18 716 (8th Cir. 1993). Thus, “before a prisoner can be charged with violating prison rules, the 19 prisoner must have notice of those rules.” *Radi v. McCormick*, 978 F.2d 715 (Table), at *1 (9th 20 Cir. 1992) (holding that, to satisfy due process, a prisoner must be informed that the conduct he 21 engaged in could subject him to disciplinary charges and punishment, but ultimately upholding 22 the district court’s conclusion that there was sufficient factual evidence in the record to find that 23 the prisoner had notice of the rule he violated); see also *Schenck v. Edwards*, 133 F.3d 929 24 (Table), at *1 (9th Cir. 1998) (noting that, in a case brought by a prisoner, “[a]n individual’s due 25 process rights may be violated if he is sanctioned for conduct that he had insufficient notice was 26 27 2 See *Brodheim*, 584 F.3d at 1270 (noting that “since harm that is more than minimal will almost always have a chilling effect, alleging harm and alleging the chilling effect would seem under the 28 circumstance to be no more than a nicety.”). 1 proscribed”) (citing *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972)); *Anderson v. Crosby*,

2 No. 5:04CV164SPMMD, 2005 WL 3357220, at *4 (N.D. Fl. Mar. 25, 2005) (citing *Reeves v. 3 Peetcox*, 19 F.3d 1061 (5th Cir. 1994)) (though generally people are presumed to know the law, 4 “in the unique setting of a prison, inmates are not necessarily presumed to know the 5 regulations.”). Moreover, section 3378.1(f)(3)(A) of title 15 of the California Code of 6 Regulations requires that if an STG related symbol is certified, “dissemination of the newly 7 certified sign or symbol will be made to . . . the incarcerated population.” § 3378.1(f)(3)(A).3 8 Plaintiff alleges that the butterfly was a newly certified STG symbol, that its new 9 classification had not been posted as a memo in the facility or disseminated to the general 10 population, and that plaintiff was unable to access the library to inform himself of the new 11 classification due to COVID-19. Viewing the TAC in the light most favorably to plaintiff, as the 12 Court is required to do at this stage, plaintiff has adequately alleged that his due process rights 13 were violated as he allegedly did not receive fair notice of the prohibited conduct prior to being 14 sanctioned for such

conduct. 15 Given that the findings and recommendations concluded that plaintiff had failed to state a 16 due process claim under the Fourteenth Amendment as a general matter, the findings and 17 recommendations did not consider plaintiff's allegations on this claim as to each defendant. The 18 matter is therefore referred back to the magistrate judge to consider, with respect to each 19 defendant, the extent to which plaintiff has sufficiently pleaded his due process claim as to that 20 defendant. 21 Finally, the magistrate judge correctly found that plaintiff failed to state any facts 22 consistent with an Eighth Amendment violation, see F&R 5 n.3, and plaintiff did not object to 23 24 3 Though violation of a prison regulation does not by itself amount to a violation of the Constitution, see, e.g., Lovell, 90 F.3d at 370, here, prison authorities' alleged violation of the 25 regulation provides further support for plaintiff's due process claim that he was not provided sufficient notice that the symbol had been certified as an STG symbol before defendants 26 sanctioned him for being in possession of that symbol. Cf. Newell, 79 F.3d at 118 (prison's 27 creation of regulation prohibiting prisoner's conduct three weeks after conduct indicated prison's understanding that prisoner did not have sufficient notice from existing regulations that conduct 28 was prohibited). 1 | this finding, see Doc. 20. The finding is therefore adopted. 2 Accordingly, 3 1. The findings and recommendations issued on June 3, 2024, Doc. 19, are adopted in 4 part and declined in part as set forth above; 5 2. Plaintiff's Eighth Amendment claim is dismissed for failure to state a claim; 6 3. This action shall proceed on plaintiff's retaliation claim under the First Amendment 7 against defendants Valdez and Jimenez; and 8 4. With respect to plaintiff's due process claim under the Fourteenth Amendment, the 9 matter is referred back to the assigned magistrate judge for further findings regarding 10 the extent to which plaintiff has sufficiently pleaded his due process claim as to each 11 defendant. 12 5. This matter is also referred back to the assigned magistrate judge for other further 13 proceedings consistent with this Order. 14 15 16 | IT IS SO ORDERED. _

17 Dated: _ September 21, 2025 4 .

ig UNITED STATES DISTRICT JUDGE

19 20 21 22 23 24 25 26 27 28