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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS HIGHTOWER,

Plaintiff,

No. 2:08-cv-0228 MCE EFB P

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

ORDER

_____ /

Plaintiff, a state prisoner proceeding *pro se*, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 4, 2012, the magistrate judge filed findings and recommendations herein (ECF No. 114) which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Defendant Patton has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.


1 The Court thus adopts the findings and recommendations in full, with the exception of one
2 sentence: "Plaintiff, however, was not able to resist from the 'hog tie' position" (ECF No. 114 at
3 2, lines 21-22) is changed to "However, it was impossible for Plaintiff to not resist, due to the
4 'hog tie' position he was in." (See Pl.'s Compl., ECF No. 29 at 6.)

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The findings and recommendations (ECF NO. 114) filed September 4, 2012,
7 are ADOPTED IN FULL, with the exception of the sentence noted above; and

8 2. Defendant's February 16, 2012, motion for summary judgment (ECF No. 97)
9 is DENIED.

10 Dated: September 26, 2012

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13 MORRISON C. ENGLAND, JR.
14 UNITED STATES DISTRICT JUDGE
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