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

MICHAEL C. JACOB,

Plaintiff,

No. 2:10-cv-0692 DAD (PC)

vs.

M. T. RAMIREZ, et al.,

Defendants.

ORDER AND

FINDINGS & RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that he has been improperly identified as a member of a prison gang. Plaintiff seeks injunctive relief requiring defendants to remove any and all identification of plaintiff as a “Crip” from all classification and critical case information documentation and to amend their regulations concerning gang identification to comply with the requirements of a federal court order.

Defendants have moved to dismiss this action, contending that they are entitled to qualified immunity. In opposition to the motion, plaintiff argues, correctly, that qualified immunity is a defense to a request for money damages and not to a request for injunctive relief.

See Presbyterian Church (U.S.A.) v. United States, 870 F.2d 518, 527 (9th Cir. 1989) (citing

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1 Harlow v. Fitzgerald, 457 U.S. 800, 806 (1982). Accordingly, the defense of qualified immunity
2 is inapplicable in this action.

3 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the
4 Court is directed to assign this action to a United States District Judge; and

5 IT IS HEREBY RECOMMENDED that:

- 6 1. Defendants' December 21, 2011 motion to dismiss be denied; and
- 7 2. Defendants be directed to answer plaintiff's amended complaint within ten
8 days from the date of any order by the district court adopting these findings and
9 recommendations.

10 These findings and recommendations are submitted to the United States District
11 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
12 days after being served with these findings and recommendations, any party may file written
13 objections with the court and serve a copy on all parties. Such a document should be captioned
14 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
15 objections shall be filed and served within fourteen days after service of the objections. The
16 parties are advised that failure to file objections within the specified time may waive the right to
17 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: March 23, 2011.

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22 DALE A. DROZD
23 UNITED STATES MAGISTRATE JUDGE
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