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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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JAMES M. MILLIKEN,
Plaintiff,
v.
D. LIGHTFIELD, et al.,
Defendants.

NO. CIV. 2:10-1412 WBS JFM
ORDER RE: MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATIONS

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Plaintiff James M. Milliken, a prisoner proceeding pro se, brought this action pursuant to 42 U.S.C. § 1983 alleging violations of his Eighth Amendment rights. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local General Order No. 262, and Local Rule 302(c)(17). Defendants filed a motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6), and Magistrate Judge Moulds recommended that the court deny defendants' motion in his Findings and Recommendations issued June 21, 2011. Defendants did not file

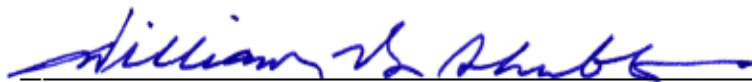
1 objections to the Findings and Recommendations.

2 This court has reviewed the record and the Findings and
3 Recommendations and will adopt the Magistrate Judge's
4 recommendation to deny defendants' motion to dismiss. Although
5 the Magistrate Judge did not cite to or discuss the Supreme
6 Court's most recent decision addressing motions to dismiss under
7 Rule 12(b)(6), Ashcroft v. Iqbal, 129 S.Ct. 1937, --- U.S. ----
8 (2009), the court is satisfied that the Magistrate Judge applied
9 the proper standard, especially given the Magistrate Judge's
10 discussion of Starr v. Baca, 633 F.3d 1191 (9th Cir. 2011). In
11 Starr, the Ninth Circuit addressed Iqbal's effect on Rule
12 8(a)(2)'s pleading standard and "supervisor liability" under §
13 1983, which were both at issue in defendants' motion to dismiss.

14 Accordingly, because the Magistrate Judge's Findings
15 and Recommendations are supported by the record and analysis of
16 relevant law, the court will adopt the Findings and
17 Recommendations in full.

18 IT IS THEREFORE ORDERED that (1) the Magistrate Judge's
19 Findings and Recommendations of June 21, 2011, be, and the same
20 hereby are, adopted in full; and (2) defendants' motion to
21 dismiss plaintiff's First Amended Complaint be, and same hereby
22 is, DENIED.

23 DATED: July 21, 2011

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25 WILLIAM B. SHUBB
26 UNITED STATES DISTRICT JUDGE
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