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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ABE WILLIAMS, JR.,  
Plaintiff,  
v.  
S. BAHADUR, et al.,  
Defendants.

No. 2:13-cv-2052-TLN-EFB P

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 May 8, 2015, the magistrate judge filed findings and recommendations herein 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. Plaintiff and Defendants have 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. The Court notes that Defendants have raised an argument in their objections that was not contained in their Motion to Dismiss (arguing that Plaintiff’s due process claim is not

1 premised on a liberty interest protected by the Constitution). (ECF No. 25 at 7-8.) The Court  
2 declines to consider this argument, as Defendants have offered no explanation of why it was not  
3 included in the motion, which would have allowed Plaintiff to respond to it and the magistrate  
4 judge to consider it. *Akhtar v. Mesa*, 698 F.3d 1202, 1208-09 (9th Cir. 2012) (holding that a  
5 district judge may exercise her discretion in determining whether to consider arguments or  
6 evidence presented for the first time in objections to a magistrate judge's recommendation).

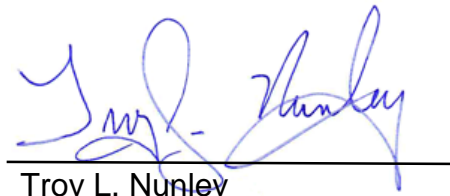
7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations filed May 8, 2015, are adopted in full; and
- 9 2. Defendants' September 30, 2014 Motion to Dismiss (ECF No. 15) is denied.

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11 IT IS SO ORDERED.

12 Dated: August 7, 2015

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Troy L. Nunley  
United States District Judge