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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   RICHARD JOSEPH CRANE,   No. 2:15-cv-0208 TLN KJN P

12   Plaintiff,

13   v.   ORDER

14   RODRIGUEZ, et al.,

15   Defendants.

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17   Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief

18   under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to

19   28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20   On October 20, 2015, the magistrate judge filed findings and recommendations herein

21   which were served on Plaintiff and which contained notice to Plaintiff that any objections to the

22   findings and recommendations were to be filed within fourteen days. (ECF No. 26.) Plaintiff

23   filed untimely objections to the findings and recommendations on November 30, 2106. (ECF No.

24   35.) Despite the untimely filing, in the interest of justice the Court has reviewed and considered

25   Plaintiff's objections.

26   In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this

27   Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the

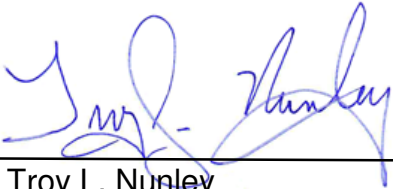28   Court finds the findings and recommendations to be supported by the record and by proper

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analysis, with the one exception noted below.

Plaintiff states that he objects to the dismissal of Defendants Peck and Hurd with prejudice "to avoid a res judicata judgment, as he desires to sue [Defendants Peck and Hurd] in a separate lawsuit." (ECF No. 35 at 1.) Plaintiff did not seek injunctive relief in the operative pleading. (ECF No. 16.) Thus, the Court will dismiss these Defendants without prejudice.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed October 20, 2015 (ECF No. 26), are adopted in part, and amended only with respect to the type of dismissal of Defendants Peck and Hurd; and

2. Plaintiff's claims against Defendants Peck and Hurd are dismissed without prejudice.

Dated: December 4, 2015

Troy L. Nunley
United States District Judge