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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RANDALL E. ELLIS,

Plaintiff,

v.

STEVEN CAMBRA, JR., et al.,

Defendants.

CASE NO. 1:02-CV-05646-AWI-SMS-PC

ORDER STRIKING PLAINTIFF’S MULTIPLE  
OBJECTIONS AND GRANTING THIRTY  
DAYS TO FILE A SINGLE DOCUMENT  
CONTAINING OBJECTIONS

(Doc. 165, 167)

THIRTY (30) DAY DEADLINE

Randall E. Ellis (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 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 October 19, 2010, this court issued Findings and Recommendations recommending that the motion for summary judgment filed by Defendant Drew be granted and that Plaintiff’s motion to strike be denied which was served on the parties and which contained notice to the parties that any objections to the Findings and Recommendations were to be filed within thirty days. (Doc. 162.) Plaintiff requested and received a forty-five day extension of time, allowing him until January 11, 2011 to file his objections. (Docs. 163, 164.) On January 11, 2011, Plaintiff filed two separate documents identified as objections to the findings and recommendations, one totaling fifty-two pages and the other totaling thirty-nine pages in length. (Docs. 165, 167.)

It is Plaintiff’s duty to clearly identify his objections to the findings and recommendation

1 and any legal authority he relies on for each objection. It is not the duty of this court to sort  
2 through over ninety pages submitted under the guise of objections to attempt to distill and  
3 distinguish nuances between the two sets of objections. Further, it is not appropriate for a party  
4 to submit new evidence or legal theories with his objections. A new theory cannot properly be  
5 raised in objections to Findings and Recommendations. *Greenhow v. Secretary of HHS*, 863  
6 F.2d 633, 638-39 (9th Cir. 1988), *overruled on other grounds by United States v. Hardesty*, 977  
7 F.2d 1347 (9th Cir.1992). Factual assertions that which could have been but were not presented  
8 to the Magistrate Judge should be given no consideration when the court is deciding whether to  
9 adopt Findings and Recommendations. *Sundaram v. County of Santa Barbara*, 2001 WL  
10 540515, \*1 (C.D.Cal. 2001); *Beam System, Inc. v. Checkpoint Systems, Inc.*, 1997 WL 423113,  
11 \*9 n.9 (C.D.Cal. 1997). “[A]llowing parties to litigate fully their case before the magistrate and,  
12 if unsuccessful, to change their strategy and present a different theory to the district court would  
13 frustrate the purpose of the Magistrates Act.” *Greenhow*, 863 F.2d at 638.

14           Based on the foregoing, the documents which Plaintiff identified as objections to the  
15 findings and recommendations (Docs. 165, 167) are hereby STRICKEN from the record in this  
16 case. Plaintiff is granted thirty (30) days from the date of service of this order to file one  
17 document delineating all of his objections to the findings and recommendations which is not to  
18 exceed 25 pages in length, may not include any new legal theories and/or evidentiary  
19 submissions, and must comply with all applicable Local Rules and Federal Rules of Civil  
20 Procedure.

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23 IT IS SO ORDERED.

24 **Dated: March 8, 2011**

**/s/ Sandra M. Snyder**  
UNITED STATES MAGISTRATE JUDGE