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

ROBERT MAESHACK,

1:06-cv-00011-AWI-GSA-PC

Plaintiff,

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 58.)

vs.

AVENAL STATE PRISON, et al.,

ORDER GRANTING DEFENDANTS HARBINSON
AND MCINTYRE’S MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM, BASED ON RES
JUDICATA (Doc. 38.)

Defendants.

ORDER DISMISSING DEFENDANTS HARBINSON
AND MCINTYRE FROM THIS ACTION

_____ /

Robert Maeshack (“Plaintiff”) is a state prisoner proceeding pro se 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 72-302.

On January 25, 2010, findings and recommendations were entered, recommending that Defendants Harbinson and McIntyre’s motion to dismiss of May 6, 2009 be granted, and Defendants Harbinson and McIntyre be dismissed from this action for Plaintiff’s failure to state a claim against him, based on the doctrine of res judicata. On February 18, 2010, Plaintiff filed objections to the findings and recommendations. (Doc. 61.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 73-
2 305, this court has conducted a de novo review of this case. Having carefully reviewed the entire
3 file, the court finds the findings and recommendations to be supported by the record and proper
4 analysis. While the court is not without sympathy to Plaintiff's medical problems, the court cannot
5 revisit allegations that have already been fully adjudicated in another action.

6 Accordingly, THE COURT HEREBY ORDERS that:

- 7 1. The Findings and Recommendations issued by the Magistrate Judge on
8 January 25, 2010, are adopted in full;
- 9 2. Defendants Harbinson and McIntyre's motion to dismiss, filed May 6, 2009, is
10 GRANTED;
- 11 3. Defendants Harbinson and McIntyre are dismissed from this action for
12 Plaintiff's failure to state any claim against them, based on the doctrine of res
13 judicata; and
- 14 4. The Clerk of the Court is directed to reflect the dismissal of Defendants
15 Harbinson and McIntyre from this action on the court's docket.

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17 IT IS SO ORDERED.

18 **Dated:** March 9, 2010

19 /s/ Anthony W. Ishii
20 CHIEF UNITED STATES DISTRICT JUDGE
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