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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL LENOIR SMITH,

Plaintiff,

v.

SGT. DAVIS, et al.,

Defendants.

CASE NO. 1:07-cv-01632-AWI-GSA PC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF 'S MOTIONS
FOR A PRELIMINARY INJUNCTION BE
DENIED AS MOOT

(Docs. 63 and 65)

OBJECTIONS DUE WITHIN FIFTEEN DAYS

Plaintiff Michael Lenoir Smith is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On June 3, 2009, and June 8, 2009, Plaintiff filed motions seeking a preliminary injunction requiring Warden Ken Clark to provide him with his legal materials, which were confiscated following his transfer to the California Substance Abuse Treatment Facility and his placement in administrative segregation. Defendants did not file a response.

In his subsequent motion for an extension of the discovery deadline, filed June 26, 2009, Plaintiff stated that he was provided with his legal material on June 18, 2009. (Doc. 68.) Accordingly, the Court HEREBY RECOMMENDS that Plaintiff's motions for a preliminary injunction, filed June 3, 2009, and June 8, 2009, be DENIED as moot. S.E.C. v. Gemstar-TV Guide Int'l, Inc., 367 F.3d 1087, 1091 (9th Cir. 2004).

This Finding and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fifteen (15)**

1 **days** after being served with the Finding and Recommendation, the parties may file written
2 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
3 Finding and Recommendation.” The parties are advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d
5 1153 (9th Cir. 1991).

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8 IT IS SO ORDERED.

9 **Dated: September 3, 2009**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE