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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MAXIMILIAN MONCLOVA-CHAVEZ,                    CASE NO. 1:08-cv-00076-AWI-SMS PC

Plaintiff,

v.

ERIC McEACHERN, et al.,

Defendants.

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
PLAINTIFF’S MOTION FOR ENTRY OF  
DEFAULT JUDGMENT, WITHOUT  
PREJUDICE

(ECF Nos. 58, 78)

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Plaintiff Maximilian Monclova-Chavez (“Plaintiff”) is a federal prisoner proceeding in forma pauperis in this civil action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971), which provides a remedy for violation of civil rights by federal actors. At this juncture, this action is proceeding on Plaintiff’s [complaint](#), filed January 15, 2008, against Defendants Timothy Miller, Kenneth White, and Correctional Officer Tincher for violation of the Eighth Amendment. On December 8, 2010, an [entry of default](#) was filed against Eric McEachern for failure to appear, plead, or answer within the time allowed by law. Plaintiff filed a [motion for default judgment](#) on August 28, 2010. 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 February 15, 2011, the Magistrate Judge [findings and recommendations](#) recommending that Plaintiff’s motion for default judgment be denied. The parties were given thirty days in which to file objections and no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a

1 de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings  
2 and recommendations to be supported by the record and by proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed February 15, 2011, are adopted in full; and
- 5 2. Plaintiff's motion for default judgment filed August 28, 2010, is DENIED, without  
6 prejudice.

7 IT IS SO ORDERED.

8 Dated: March 31, 2011

  
9 CHIEF UNITED STATES DISTRICT JUDGE