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

ROBERT E. BARRETT,
Plaintiff,
vs.
MATTHEW CATE, et al.,
Defendants.

Case No. 1:09-cv-01741 LJO JLT (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. 45)

_____ /

On September 23, 2011 the Court ordered Plaintiff to show cause why Defendant McGinnis should not be dismissed from the action. (Doc. 42). As noted in the Court’s order, Defendant McGinnis was unserved, had not been located, and it appeared that Plaintiff had misidentified this defendant. Id. On October 3, 2011 Plaintiff responded to the Court’s order and indicated that he had erroneously named Defendant McGinnis in his complaint and that any “allegations made against “McGinnis” are to be construed as allegations against Defendant McGuinness.” (Doc. 43). Accordingly, the Court issued its Findings and Recommendations (Doc. 45), recommending that all claims as to Defendant McGinnis be dismissed and that Defendant McGinnis be terminated from the action. Neither Party has filed objections to the findings and recommendation.

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds that the findings and recommendations issued by the assigned Magistrate Judge are well supported by the record.

Accordingly, it is **HEREBY ORDERED** that all claims as to Defendant McGinnis are dismissed and Defendant McGinnis is terminated from this action.

IT IS SO ORDERED.

Dated: October 26, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE