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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

KEVIN E. FIELDS,

Plaintiff,

v.

MAURICE JUNIOUS, et al.,

Defendants.

CASE NO. 1:09-cv-01771-AWI-DLB PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND GRANTING  
IN PART AND DENYING IN PART  
DEFENDANTS’ MOTION FOR SUMMARY  
JUDGMENT (ECF No. 62)

Plaintiff Kevin E. Fields (“Plaintiff”) is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On December 2, 2011, Defendants Foley, Magvas, Hernandez, Marsh, Molina, and Tucker filed a [motion for summary judgment](#). ECF No. 51. 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 June 11, 2012, the Magistrate Judge filed a [Findings and Recommendations](#) which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within fourteen days. ECF No. 62. No party filed a timely Objection to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.<sup>1</sup>

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<sup>1</sup> Pursuant to *Woods v. Carey*, Nos. 09-15548, 09-16113, 2012 WL 2626912 (9th Cir. Jul. 6, 2012), Defendants are required to provide a notice pursuant to *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc), and *Klinge v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988), at the time a motion for

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed June 11, 2012, is adopted in full; and
- 3 2. Defendants' motion for summary judgment, filed December 2, 2011, is GRANTED
- 4 in part and denied in part;
- 5 3. Summary judgment is granted in favor of Defendants Magvas and Foley and against
- 6 Plaintiff for the Eighth Amendment claims;
- 7 4. Summary judgment is denied as to Defendants Hernandez, Molina, Marsh, and
- 8 Tucker;
- 9 5. Defendants Magvas and Foley are dismissed from this action;
- 10 6. This action proceed on Plaintiff's Eighth Amendment claim regarding unsanitary
- 11 conditions in his cell against Defendants Hernandez, Molina, Marsh, and Tucker and
- 12 on Plaintiff's Eighth Amendment claim regarding inadequate temperature in his cell
- 13 against Defendants Hernandez, Molina, and Marsh; and
- 14 7. The matter is referred to the Magistrate Judge for further proceedings.

15 IT IS SO ORDERED.

16 Dated: August 3, 2012

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18 CHIEF UNITED STATES DISTRICT JUDGE

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26 summary judgment is filed to prevent prejudice against a pro se prisoner litigant in opposing such  
27 motion. A *Rand* notice was not served concurrently with the filing of the motion. However, Plaintiff  
28 concedes summary judgment for his claims against Defendants Magvas and Foley, and Defendants' motion is denied as to the remaining Defendants. Thus, a *Rand* notice would not affect adjudication of the motion.