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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MICHAEL LYNN WATERS,

Plaintiff,

v.

ZAMORA,

Defendants.

CASE NO. 1:10-CV-01643-AWI-DLB PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
ACTION FOR FAILURE TO STATE A  
CLAIM

(DOC. 22)

DISMISSAL COUNTS AS STRIKE  
PURSUANT TO 28 U.S.C. § 1915(G)

Plaintiff Michael Lynn Waters (“Plaintiff”) is a California 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 302.

On May 12, 2011, the Magistrate Judge filed a [Findings and Recommendations](#) which was served on Plaintiff and which contained notice to Plaintiff that any objection to the Findings and Recommendations was to be filed within twenty-one days. Doc. 22. Plaintiff filed an [Objection](#) to the Findings and Recommendations on May 26, 2011. Doc. 23.

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. Plaintiff’s exhibits in support of his amended complaint do not cure the deficiencies in Plaintiff’s Eighth Amendment claim.

To the extent that Plaintiff alleges a due process violation, Plaintiff fails to state a claim. Plaintiff has failed to demonstrate a liberty interest in an accurate central file. *See Sandin v. Conner*,

1 515 U.S. 472, 484 (1995) (holding prisoners have a protected liberty interest for “atypical and  
2 significant hardships on the inmate in relation to the ordinary incidents of prison life”).

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The Findings and Recommendations, filed May 12, 2011, is adopted in full;
- 5 2. This action is dismissed for failure to state a claim upon which relief may be granted;
- 6 3. This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g); and
- 7 4. All pending motions are DENIED as moot.

8 IT IS SO ORDERED.

9 Dated: July 29, 2011

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12 CHIEF UNITED STATES DISTRICT JUDGE  
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