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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

PAUL HAMILTON,

Plaintiff,

1:10-cv-1925-LJO-MJS (PC)

(ECF No. 11)

ORDER ADOPTING FINDINGS AND **RECOMMENDATION DENYING** PLAINTIFF'S MOTION TO REMAND

J.A. YATES, et al.,

v.

Defendants.

Plaintiff Paul Hamilton ("Plaintiff") is a state prisoner proceeding pro se in a 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. \S 636(b)(1)(B) and Local Rule 302.

On January 17, 2012, the Magistrate Judge filed a Findings and Recommendation recommending that Plaintiff's motion to remand be denied. (ECF No. 11.) Plaintiff has filed objections to the Findings and Recommendation. (ECF No. 12.) Plaintiff is correct in his statement that the California Fifth District Court of Appeal did not dismiss this action. (Id.) However, the California Fifth District Court of Appeal also found that Plaintiff's statements were ambiguous, and it appeared he was asserting a claim under 42 U.S.C. § 1983. (ECF No. 1-6 at 15.) This finding provided grounds for removal of Plaintiff's action to this Court.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(c) and Local Rule 305, 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 24 analysis.

Accordingly, IT IS HEREBY ORDERED that:

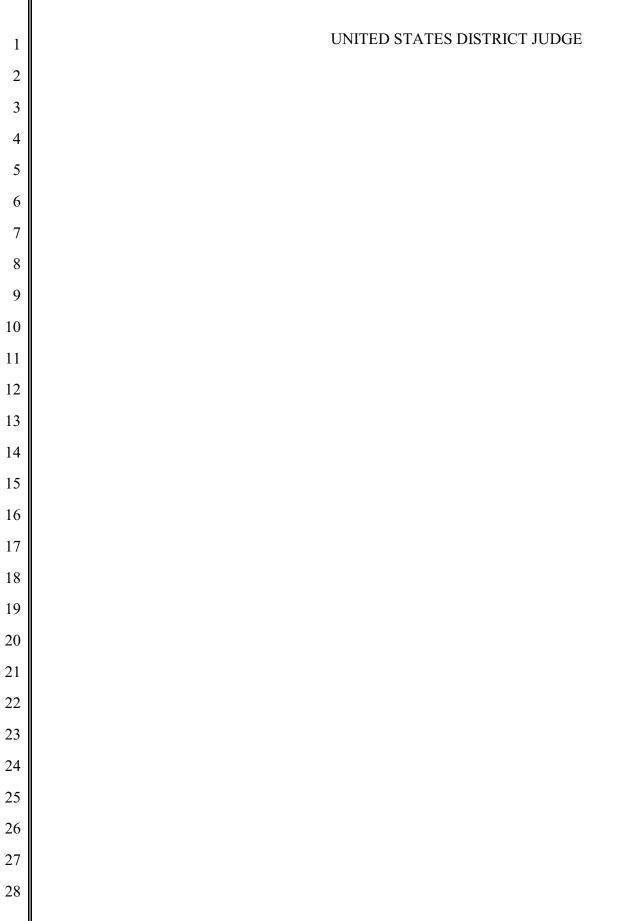
1. The Findings and Recommendation, filed January 17, 2012, are adopted in full; and

2. Plaintiff's Motion to Remand (ECF No. 6) is DENIED.

28 IT IS SO ORDERED.

Dated: <u>March 21, 2012</u>

/s/ Lawrence J. O'Neill



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