



1 objections, the Court finds that the Findings and Recommendations are supported by the record  
2 and by proper analysis.

3 In Plaintiff's objections, he argues, for the first time, that Defendant violated his equal  
4 protection rights by depriving him of access to electrical appliances that other inmates are  
5 permitted to have. However, a new theory cannot properly be raised in objections to Findings  
6 and Recommendations. Greenhow v. Secretary of HHS, 863 F.2d 633, 638-39 (9th Cir. 1988),  
7 overruled on other grounds by United States v. Hardesty, 977 F.2d 1347 (9th Cir.1992).

8 Moreover, as explained in the Findings and Recommendations, Plaintiff requests only  
9 injunctive relief. Such relief remains moot because Plaintiff has been transferred to a different  
10 prison.<sup>1</sup>

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12 The Court notes that Plaintiff states, also for the first time, that his property has now been  
13 destroyed. He explains that he received a first level response on January 15, 2013, indicating  
14 that his property has now been destroyed. He also indicates that his appeal as to the destruction  
15 of property is only at the second level of review. The destruction of property issue may  
16 ultimately lead to cognizable claims, though not in the action currently before the Court.

17 In conclusion, Plaintiff's objections do not change the nature of the action before the  
18 Court. The Findings and Recommendations remain supported by the record and proper analysis.

19 Accordingly, IT IS HEREBY ORDERED that:

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- 21 1. The Findings and Recommendations, filed January 9, 2013, are ADOPTED in  
22 full;
  - 23 2. This action is DISMISSED for failure to state a claim for which relief can be  
24 granted;
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28 <sup>1</sup> Plaintiff filed an untimely opposition to Defendant's Motion to Dismiss in which he also references an equal protection violation. However, Plaintiff's request for injunctive relief remains moot.

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- 3. This dismissal is subject to the “three-strikes” provision set forth in 28 U.S.C. § 1915(g); and
- 4. Defendant’s Motion to Dismiss is DENIED AS MOOT (Document 19).

IT IS SO ORDERED.

Dated: February 20, 2013

  
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SENIOR DISTRICT JUDGE