Case 1:18-cv-00277-DAD-HBK Document 84 Filed 09/07/21 Page 1 of 2 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 LAMONT SHEPARD, Case No. 1:18-cv-00277-DAD-HBK 12 ORDER ADOPTING FINDINGS AND Plaintiff. RECOMMENDATIONS RECOMMENDING 13 v. DENIAL OF CROSS MOTIONS FOR SUMMARY JUDGMENT 14 M. BORUM, et al., (Doc. Nos. 65, 66, 80) 15 Defendants. 16 17 Plaintiff Lamont Shepard is appearing pro se and in forma pauperis in this civil rights 18 action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge 19 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On July 13, 2021, the assigned magistrate judge issued findings and recommendations, 21 recommending that both plaintiff's and defendants' motions for summary judgment be denied. 22 (Doc. No. 80.) Specifically, the magistrate judge concluded that there were material facts in dispute which precluded the granting of summary judgment in favor of either plaintiff or 23 24 defendants as a matter of law, and that defendants had also failed to establish that they were entitled to summary judgment on qualified immunity grounds. (Id. at 13–14, 16.) The findings 25 26 and recommendations were served on the parties and contained notice that objections were due 27 within fourteen days. (Id. at 17.) Plaintiff filed untimely objections on July 30, 2021. (Doc. No. 28 81.) Defendants did not file objections to the pending findings and recommendations.

Case 1:18-cv-00277-DAD-HBK Document 84 Filed 09/07/21 Page 2 of 2

Although plaintiff's objections were received by the court after the fourteen-day period for objections had passed, the court has reviewed plaintiff's objections out of an abundance of caution. In his objections, plaintiff disputes the facts asserted in defendants' declarations, and alleges that defendant Borum was fully aware of plaintiff's litigation and inmate grievance history at the time of his status change and that both defendants knowingly placed plaintiff in c-status in error. (*Id.* at 1–2.) Plaintiff's objections do not address the magistrate judge's reasoning as set forth in the pending findings and recommendations, but rather, merely adds additional support to the magistrate judge's finding that the parties dispute over whether plaintiff's history of filing inmate grievances was a substantial or motivating factor behind his placement on c-status precludes the granting of summary judgment in favor of any party to this action.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's objections, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly,

- 1. The findings and recommendations issued on July 13, 2021 (Doc. No. 80) are adopted in full;
- 2. Defendant's motion for summary judgment is denied (Doc. No. 65);
- 3. Plaintiff's motion for summary judgment is denied (Doc. No. 66);
- 4. The matter is referred back to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: September 5, 2021

UNITED STATES DISTRICT JUDGE