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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORIO FUNTANILLA, JR.,

Plaintiff,

No. CIV S-02-1157 LKK GGH P

vs.

KAREN KELLY, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 General Order No. 262.

On March 19, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Defendants have not filed objections.

On May 5, 2005, the magistrate judge denied plaintiff’s request for extension of time to file objections to the findings and recommendations. On May 13, 2009, plaintiff filed a request for reconsideration of this order. Pursuant to E.D. Local Rule 72-303(f), a magistrate judge’s orders shall be upheld unless “clearly erroneous or contrary to law.” Upon review of the

1 entire file, the court finds that it does not appear that the magistrate judge's ruling was clearly  
2 erroneous or contrary to law.

3           The court has reviewed the file and finds the findings and recommendations to be  
4 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY  
5 ORDERED that:


6           1. Upon reconsideration, the order of the magistrate judge filed May 5, 2009, is  
7 affirmed; plaintiff's May 13, 2009, motion for reconsideration (# 206) is denied;

8           2. The findings and recommendations filed March 19, 2009, are adopted in full;

9           3. Plaintiff's motion for partial summary judgment (no. 165) is denied;

10           4. Defendants' motion for partial summary judgment (no. 170) is granted; claims  
11 1, 2, 3, 4, 5, 6, 7, 8, 12 and 17 are dismissed; this action shall proceed to trial as to claims 9, 10,  
12 11, 13, 14, 15, and 16.

13 DATED: September 3, 2009.

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17 LAWRENCE K. KARLTON  
18 SENIOR JUDGE  
19 UNITED STATES DISTRICT COURT  
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