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

KENNARD LEE DAVIS,

Plaintiff,

No. CIV S-04-0821 LKK KJM P

vs.

M. KNOWLES, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action under 42 U.S.C. § 1983. On June 1, 2009, the undersigned recommended that the remaining defendants’ motion for summary judgment be granted and the case dismissed. See Docket No. 137. Plaintiff filed no objection to the recommendation. The district judge adopted the findings and recommendations, granted the motion for summary judgment and entered judgment against plaintiff on September 1, 2009. See Docket Nos. 139 and 140. Plaintiff then filed two motions to alter or amend the judgment, alleging he had never received a copy of the magistrate judge’s findings and recommendations. See Docket Nos. 141 and 142. Plaintiff did not at that time assert any substantive objections to the court’s decision to dismiss his case, but the court ordered that plaintiff be re-served with the findings and recommendations and gave plaintiff leave to supplement his motions with any objections he would have filed. See Docket No. 147. Pursuant

1 to that order and a subsequent extension of time, plaintiff has now supplemented his motions to
2 alter or amend judgment.¹ See Docket No. 150.

3 Having reviewed the supplement to plaintiff's motions, the court finds no basis on
4 which to recommend altering or amending the court's grant of the remaining defendants' motion
5 for summary judgment or its entry of judgment against plaintiff.

6 Plaintiff's supplement also contains a request for the appointment of a guardian ad
7 litem. See Docket No. 150 at 9. The court has already denied one such motion in this case. See
8 Docket No. 147. For the same reasons asserted then, and because there is no new information in
9 the record supporting reconsideration, the court will deny the request again.

10 IT IS HEREBY ORDERED that plaintiff's request for appointment of a guardian
11 ad litem (Docket No. 150) is denied.

12 IT IS HEREBY RECOMMENDED that the motions to alter or amend judgment
13 (Docket Nos. 141 and 142) be denied.

14 These findings and recommendations are submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
16 one days after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
19 shall be served and filed within fourteen days after service of the objections. The parties are
20 advised that failure to file objections within the specified time may waive the right to appeal the
21 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 DATED: August 14, 2010.

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U.S. MAGISTRATE JUDGE

25 ¹ The two motions to amend judgment were filed on consecutive days and are, if not
26 identical, so substantially similar that they are duplicative. Therefore, the one supplement
plaintiff has filed applies with equal weight to both motions now before the court.