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

VERNON WAYNE McNEAL,

Plaintiff,

No. 2:05-cv-0441 GEB EFB P

vs.

EVERT, et al.,

Defendants.

ORDER

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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 Rule 302.

On January 18, 2013, 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 fourteen days. Neither party filed objections to the findings and recommendations. The undersigned adopted those findings and recommendations by order filed February 21, 2013. Dckt. No. 146.

Thereafter, plaintiff demonstrated that he could not have timely objected to the findings and recommendations despite his diligence. Therefore, on April 4, 2013, the undersigned vacated the February 21, 2013 order and allowed plaintiff 14 days to file objections.

1 After an extension of time, plaintiff filed objections to the findings and recommendations on  
2 June 3, 2013.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule  
4 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire  
5 file, the court finds the findings and recommendations to be supported by the record and by  
6 proper analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The findings and recommendations filed January 18, 2013 are adopted in full;  
9 and

10 2. The August 2, 2012 motion for summary judgment (Dckt. No. 141) filed by  
11 defendants Ginder, McCoy, Hooven, Chenoweth, Ervin, Chatham, and Barton is granted as to  
12 defendants Ginder, McCoy, Hooven, Chenoweth, and Barton and denied as to defendants Ervin  
13 and Chatham.

14 So ordered.

15 Dated: July 5, 2013

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18 GARLAND E. BURRELL, JR.  
Senior United States District Judge