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

GARRY G. STEELE,

Plaintiff,

No. CIV S-05-1874 LKK DAD P

vs.

MARK McMAHON, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

In an order filed concurrently with these findings and recommendations, the undersigned has screened the prisoner plaintiff's complaint and determined that plaintiff has sued a state agency for monetary damages. The Eleventh Amendment serves as a jurisdictional bar to such a suit. See Quern v. Jordan, 440 U.S. 332 (1979); Alabama v. Pugh, 438 U.S. 781 (1978) (per curiam); Jackson v. Hayakawa, 682 F.2d 1344, 1349-50 (9th Cir. 1982). Because the California Highway Patrol is immune from the relief sought, plaintiff's claims against this defendant lack an arguable legal basis and should be dismissed pursuant to 28 U.S.C. § 1915A.

Accordingly, IT IS HEREBY RECOMMENDED that defendant California Highway Patrol be dismissed from this action.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within

1 twenty days after being served with these findings and recommendations, plaintiff may file
2 written objections with the court. A document containing objections should be titled "Objections
3 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
4 objections within the specified time may, under certain circumstances, waive the right to appeal
5 the District Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: September 29, 2005.

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10 DALE A. DROZD
11 UNITED STATES MAGISTRATE JUDGE

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