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Sean C, Fisher,

v.

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

No. 2:05-cv-02217-MCE-CKD

ORDER

N. Grannis, et al.,

Defendants.

Plaintiff,

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On December 6, 2011, plaintiff filed a motion for reconsideration of the magistrate judge's order filed November 18, 2011. See Dkt. Nos. 61 and 62. The Magistrate Judge's Order responded to an earlier decision of the United States Court of Appeals for the Ninth Circuit, which affirmed in the part, vacated in part, and remanded for further consideration, this Court's Order dismissing this action. See Dkt. No. 16. Memorandum Disposition, the Ninth Circuit specifically directed the court to consider, on remand, "Fisher's claims that he was denied access to the grievance system and was retaliated against for exercising his First Amendment rights."

<u>See</u> Dkt. No. 48 at 2-3.

The Magistrate Judge's November 18, 2011, Order determined that Plaintiff had adequately stated a claim for retaliation against two of the correctional officers, defendants Briddle and Davey, but had not adequately stated facts against the other defendants named in the amended complaint. Dkt. No 61 at 3. In addition, the Magistrate Judge held that Plaintiff had not "stated a claim that he was denied access to the prison grievance process and, by extension, the courts." Id. The Magistrate Judge noted that even if the denial of Plaintiff's grievances were improper, Plaintiff has not sufficiently alleged that he was denied access to the courts. Id. The Magistrate Judge therefore determined, inter alia, that this action could proceed against defendants Briddle and Davey.

Pursuant to E.D. Local Rule 303(f), a magistrate judge's orders shall be upheld unless "clearly erroneous or contrary to law." Upon review of the entire file, the Court finds that it does not appear that the magistrate judge's ruling was clearly erroneous or contrary to law.

Therefore, IT IS HEREBY ORDERED that, upon reconsideration, the order of the magistrate judge filed November 18, 2011, is affirmed.

Dated: December 12, 2011

MORRISON C. ENGLAND, (R.)
UNITED STATES DISTRICT JUDGE