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

SHAWN MARSHALL TOMPKINS,

Plaintiff,

No. CIV S-07-2346 GEB EFB P

vs.

STEPHENS, 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 Rule 302.

On February 25, 2010, 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 from the date the findings and recommendations were served. Defendants have filed untimely objections to the findings and recommendations. In an abundance of caution, the court has considered the untimely objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire

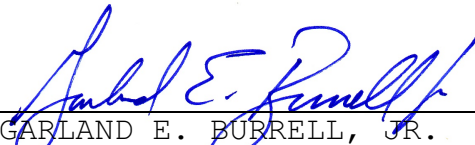
1 file, the court finds the findings and recommendations to be supported by the record and by  
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed February 25, 2010 are adopted in full;
- 5 2. Defendants' August 14, 2009 motion to dismiss is denied;<sup>1</sup> and
- 6 3. Defendants are directed to file an answer within twenty-one days.

7 So ordered.

8 Dated: March 26, 2010

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GARLAND E. BURRELL, JR.  
United States District Judge

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26 <sup>1</sup> The court notes that the denial is without prejudice to renewal in a motion for summary judgment.