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

MARKUS TRUVELL YEARBY,

Plaintiff,

No. 2:07-cv-2800 JAM KJN P

vs.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS, 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 July 21, 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 twenty-one days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed July 21, 2010, are adopted in full.

2. Defendant's motion to dismiss (Dkt. No. 62) plaintiff's state tort claim is denied.

3. Defendant's motion to dismiss (Dkt. No. 62) plaintiff's state constitutional claim is granted.

4. Plaintiff's "Request for Intervention" to obtain preliminary injunctive relief (Dkt. No. 82) is denied.

DATED: September 22, 2010.

/s/ John A. Mendez  
UNITED STATES DISTRICT JUDGE

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