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

DAVID GENE LANCASTER,

Plaintiff,

No. CIV S-08-0051 LKK GGH P

vs.

TOM L. CAREY, Warden, 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 June 6, 2011, 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. Defendants have filed objections to the findings and recommendations.¹

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule

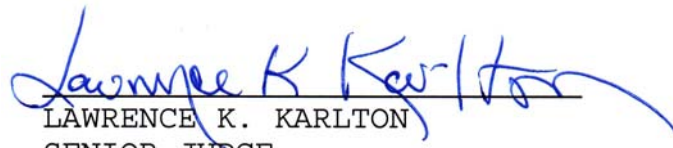
¹ The magistrate judge, in noting a different resolution in Morris v. Hickison, CIV-S-06-2936 LKK KJN P, regarding defendants Herrera and Fry, correctly found that the instant plaintiff's claim as to these defendants cannot be resolved by a summary judgment motion. See Findings and Recommendations, pp. 20-21, n 23.

1 304, this court has conducted a de novo review of this case. Having carefully reviewed the
2 entire file, the court finds the findings and recommendations to be supported by the record and by
3 proper analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations filed June 6, 2011 are adopted in full; and
- 6 2. Defendants' November 2, 2010 motion for summary judgment
7 (Docket No. 38) is granted as to defendant Carey and denied as to defendants Herrera and Fry.

8 DATED: July 19, 2011.

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12 LAWRENCE K. KARLTON
13 SENIOR JUDGE
14 UNITED STATES DISTRICT COURT
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