IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LACEDRIC W. JOHNSON,

Plaintiff, No. Civ S-08-1609 KJM KJN P

vs.

D.K. SISTO, 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 9, 2011, the magistrate judge filed findings and recommendations, 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.[1]

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are

[1] The document currently identified as objections on the court docket is in fact an opposition to a different motion to dismiss. *See* ECF 112.

reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having carefully reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed May 9, 2011, are adopted in full;

2. Defendant Fleischman's February 1, 2011 motion to dismiss (ECF 74) is granted;

3. Plaintiff's claims against defendant Fleischman are dismissed; and

4. The Clerk of the Court is directed to modify the description of the document filed at ECF 112, to note that the document is an opposition to the motion to dismiss filed at ECF 94.

DATED: September 7, 2011.

UNITED STATES DISTRICT JUDGE

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