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

CHARLES E. JONES,

Plaintiff,

No. CIV S-08-3121 GEB EFB P

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a former state prisoner, proceeding pro se, who seeks relief pursuant to 42 U.S.C. § 1983. Plaintiff alleges that while in prison, he was subjected to overcrowded conditions, causing him to contract a stomach virus and the flu. Plaintiff claims the overcrowding also resulted in him not receiving medical care for injuries he sustained as a result of being placed in “flexy cuffs” for four to five hours. Plaintiff only seeks injunctive relief to alleviate the overcrowded conditions at High Desert State Prison.

It appears that plaintiff was released from custody on or around July 26, 2010. *See* Dckt. No. 13; *see also* Dckt. No. 15 ¶ 3 (noting that plaintiff is on parole). Accordingly, on August 12, 2010, the court ordered plaintiff to show cause why this action should not be dismissed as moot. Dckt. No. 14.

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1 Despite an extension of time, plaintiff has not responded to the order to show cause. *See*
2 Dckt. Nos. 15, 16. The court finds that in light of plaintiff's release from custody, his claim for
3 injunctive relief to alleviate the overcrowded conditions at High Desert State Prison, is now
4 moot. *See Nelson v. Heiss*, 271 F.3d 891, 897 (9th Cir. 2001) ("It is true that when a prisoner is
5 moved from a prison, his action will usually become moot as to conditions at that particular
6 facility.")

7 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed as moot.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, any party may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
13 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
14 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: November 1, 2010.

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17 EDMUND F. BRENNAN
18 UNITED STATES MAGISTRATE JUDGE
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