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

ANTHONY E. MACK,

Plaintiff,

No. CIV S-08-3161 FCD EFB P

vs.

TILTON, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On July 20, 2010, the court found that the complaint stated cognizable excessive force claims as to defendants Merriweather, Hampton, Cross and Johnston. The court further found that, with the exception of the excessive force claim, plaintiff had failed to state a cognizable claim for relief against any additional defendants. The court gave plaintiff 30 days to submit materials for service of process on defendants, or, alternatively, 30 days to file an amended complaint to attempt to state cognizable claims under the theories listed above.

On August 30, 2010, and October 18, 2010, the court granted plaintiff extensions of time to comply with the July 20, 2010 order.

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1 The time for acting has passed and plaintiff has not submitted the materials necessary for
2 service on defendants Merriweather, Hampton, Cross and Johnston, has not file an amended
3 complaint, or otherwise responded to the court's order.

4 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
5 prejudice. *See* Fed. R. Civ. P. 41(b); Local Rule 110.

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

13 DATED: December 6, 2010.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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