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

KELVIN HOUSTON,

Plaintiff,

No. CIV S-09-0178 GEB EFB P

vs.

MIKE KNOWLES, et al.,

Defendants.

ORDER

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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 August 30, 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 from the date the findings and recommendations were served. Plaintiff has filed “objections” to the findings and recommendations in which he concedes that his complaint needs to be amended and asks for permission to amend, as recommended by the magistrate.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire

1 file, the court finds the findings and recommendations to be supported by the record and by  
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed August 30, 2011, are adopted in full;

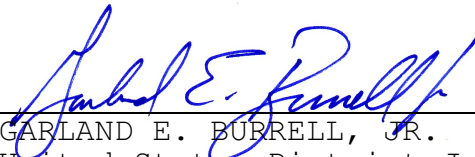
5 2. Defendants' motion to dismiss (Docket No. 53) is granted and plaintiff's  
6 claims against all defendants for violation of the Eighth Amendment and the guarantee of  
7 procedural due process under the 14th Amendment are accordingly dismissed for failure to state  
8 a claim;

9 3. Plaintiff's remaining claim against defendant Riley for denial of access to  
10 courts are dismissed for failure to state a claim; and

11 4. Plaintiff is granted leave to file an amended complaint within thirty days of this  
12 order curing the deficiencies noted in the magistrate judge's findings and recommendations.

13 So ordered.

14 Dated: September 26, 2011

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17 GARLAND E. BURRELL, JR.  
United States District Judge