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

MELVIN BROOKINS,

Plaintiff,

No. 2:09-cv-0841 FCD KJN P

vs.

MICHAEL MCDONALD, 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 22, 2010, 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 twenty-one days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed June 22, 2010, are adopted in full.

2. Defendants' March 8, 2010 motion to dismiss is granted in part and denied in part as follows:

a. Defendants' motion to dismiss plaintiff's claims arising from HDSP 08-0502 is granted;


b. Defendants' motion to dismiss plaintiff's claims arising from HDSP 08-0757 is denied; and

c. Defendants' motion to dismiss plaintiff's remaining claims as unexhausted is granted.

3. Plaintiff's injunctive relief claims are dismissed; and

4. Plaintiff's May 4, 2009 complaint is dismissed and plaintiff is granted thirty days from the date of this order to file an amended complaint that complies with the findings and recommendations filed June 22, 2010.

DATED: August 11, 2010.


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE