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

CHARLES CHATMAN,

Plaintiff,

No. CIV S-09-1028 JAM CKD P

vs.

TOM FELKER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. After considering defendants’ October 3, 2011 objections to the court’s September 12, 2011 findings and recommendations, IT IS HEREBY ORDERED that:

1. The court’s recommendation that defendants’ April 22, 2010 motion to dismiss be denied with respect to plaintiff’s First Amendment claims against defendants Craddock and Probst arising out of events occurring June 7, 2007 is vacated;

2. Defendants’ request that the court hold an evidentiary hearing is granted. The issue to be addressed at the hearing is whether plaintiff participated in an interview occurring on

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1 or about August 12, 2007 with Sergeant Harrod concerning first level review of grievance No.
2 HDSP 07-2687.

3 3. The hearing will be held on December 13, 2011 at 9:00 a.m.

4 4. Defendants may call Sergeant Harrod as a witness. Plaintiff may call himself.

5 5. The parties may not offer any exhibit at the evidentiary hearing which was not
6 submitted to the court with briefing concerning defendants' April 22, 2010 motion to dismiss
7 absent a showing of good cause why the exhibit was not submitted with said briefing.

8 Dated: November 16, 2011

9 
10 CAROLYN K. DELANEY
11 UNITED STATES MAGISTRATE JUDGE

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