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

TIMOTHY WATTS, No. 2:09-CV-1515-KJM-CMK-P  
Plaintiff,  
vs. ORDER  
R. RAMOS, et al.,  
Defendants.

\_\_\_\_\_  
Plaintiff, a state prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by the Eastern District of California local rules.

On March 7, 2013, the magistrate judge filed findings and recommendations, which were served on the parties and which contained notice that the parties may file objections within a specified time. Neither party has filed objections to the findings and recommendations.

As part of its review, this court presumes that any findings of fact are correct and reviews any conclusions of law de novo. See *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979); *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). In this case, however, the court cannot determine what facts the magistrate found to be undisputed: he first summarizes the plaintiff’s contentions and then lists the facts that defendants assert are

1 undisputed. He concludes that the evidence does not establish any risk to plaintiff's safety,  
2 based on his upper-tier housing assignment, and also that the undisputed evidence does not bear  
3 out plaintiff's claim that defendants were deliberately indifferent to plaintiff's serious medical  
4 need. ECF No. 66 at 10, 11. However, as the magistrate judge never explicitly finds any facts  
5 to be undisputed, this court cannot presume that any of the factual recitations in the findings and  
6 recommendations are correct and so cannot determine whether the legal conclusions flowing  
7 from the facts should be upheld.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The findings and recommendations filed March 7, 2013, are not adopted;  
10 and  
11 2. The case is remanded to the magistrate judge for further proceedings  
12 consistent with this order.

13 DATED: March 30, 2013.

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16 UNITED STATES DISTRICT JUDGE  
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