

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ANDREW RICK LOPEZ,

No. 2:09-cv-01760 MCE GGH P

Plaintiff,

vs.

ORDER

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

_____ /

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 July 5, 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. Plaintiff, who was granted an extension of time to do so, has filed objections to the findings and recommendations.


///
///
///

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local
2 Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the
3 entire file, the court finds the findings and recommendations to be supported by the record and by
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed July 5, 2011, are adopted in full;
- 7 2. Defendant Park's February 28, 2011 motion to dismiss (Docket No. 42) is
8 denied on the ground that plaintiff's action is barred by the statute of limitations;
- 9 3. Defendants' February 22, 2011 motion to dismiss (Docket No. 38), by
10 defendants Cate, Garcia, Berna, Cronjagar, Gomez and Florez; defendant Park's February 28,
11 2011 motion to dismiss (Docket No. 42); and defendants' March 28, 2011 motion to dismiss
12 (Docket No. 55), brought by defendants McClure, Russ, Williams, Burt, Fischer and Buechner,
13 are granted as to claims two and six. Plaintiff will, however, be granted leave to amend solely to
14 state how he has satisfied the pleading requirements of the California Government Claims Act
15 with respect to those claims, citing the applicable facts and/or any circumstances precluding him
16 from providing specific documentation of such compliance;
- 17 4. The aforementioned Defendants' motion to dismiss claim three is granted and
18 that claim is dismissed; and
- 19 5. Claim seven, construed as essentially subsumed within Claim four as it relates
20 to the claims and defendants upon which this case is proceeding is dismissed as duplicative.

21
22 Dated: September 14, 2011

23 
24 MORRISON C. ENGLAND, JR.
25 UNITED STATES DISTRICT JUDGE
26