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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	MARIO NAVARRO,
11	Plaintiff, No. Civ. S-09-1878 KJM KJN P
12	VS.
13	DEBRA HERNDON, et al.,
14	Defendants. <u>ORDER</u>
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16	Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action
17	seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate
18	Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.
19	On August 24, 2011, the magistrate judge filed findings and recommendations,
20	which were served on the parties and which contained notice that any objections to the findings
21	and recommendations were to be filed within fourteen days. No party has filed objections to the
22	findings and recommendations.
23	The court thus presumes that any findings of fact are correct. See Orand v.
24	United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are
25	reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.
26	1983).
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This court's review of the complaint has identified an issue not explained in the 1 2 findings and recommendations: how the involvement of O'Brian and Grannis in denying the 3 grievances plaintiff identifies in his complaint, see ECF No. 1 at 21 ¶ 38, violated plaintiff's right of access to the courts. Having carefully reviewed the file generally, the court finds the 4 5 remainder of the findings and recommendations to be supported by the record and by the proper analysis. 6 7 Accordingly, IT IS HEREBY ORDERED that: 1. The findings and recommendations filed August 24, 2011, are adopted in part; 8 9 2. Defendants' motion to dismiss (ECF No. 38) plaintiff's First Amended 10 Complaint is granted in part and denied in part; 11 3. This action shall proceed on plaintiff's First, Eighth and Fourteenth Amendment claims, as clarified by the magistrate judge, against defendants Kernan, Walker, 12 13 Baxter, Baker, Sclafani, and Morrow. 14 4. The court declines to adopt the findings and recommendations as to the First 15 Amendment claim for denial of access to the courts against defendants Grannis and O'Brian and 16 refers consideration of this issue back to the magistrate judge; 17 5. This action shall proceed on plaintiff's First Amendment retaliation claim 18 against defendants Grannis and O'Brian; and 19 6. All other claims and defendants (specifically, defendants Nicholas, Griffin, 20 Costa, Soliman, Frishman, Vasquez, Kelly, Shelton, and Johnson) are dismissed from this action. 21 DATED: September 30, 2011. 22 23 UNITED STATES DISTRICT JUDGE 24 25 26 2