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

CLINTON WAGNER,

Plaintiff,

No. 2: 09-cv-3166 FCD KJN P

vs.

MOSS POSNER, et al.,

Defendants.

ORDER

_____ /

On April 20, 2010, defendants Schuster and Posner filed a motion to dismiss. Plaintiff did not oppose the motion. Accordingly, on May 26, 2010, the undersigned recommended that defendants' motion be granted. Plaintiff was granted twenty-one days to file objections. Plaintiff did not file objections. On July 7, 2010, the Honorable Frank C. Damrell adopted the findings and recommendations.

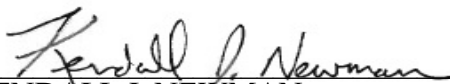
On July 8, 2010, plaintiff filed an opposition to defendants' motion to dismiss. In the opposition, plaintiff did not explain his failure to file a timely opposition. On July 27, 2010, plaintiff filed objections to the May 26, 2010 findings and recommendations. Plaintiff argues that he could not file a timely opposition to defendants' motion due to inadequate law library access. Plaintiff states that he has been on lockdown since January 18, 2010, and is only allowed to use the paging system to obtain legal materials from the law library.

1 On March 23, 2010, plaintiff filed a motion requesting that he be granted access to
2 the law library and legal materials. On May 26, 2010, the undersigned denied this motion,
3 observing that on March 25, 2010, plaintiff filed a 142 page motion for preliminary injunction.
4 The undersigned found that plaintiff's ability to prepare and file this lengthy motion undercut his
5 claim of inadequate access to the law library and legal materials.

6 Plaintiff's claim that he could not file a timely opposition due to inadequate law
7 library access is undercut by his ability to file other pleadings. Plaintiff also does not explain
8 why he did not file requests for extension of time to file his opposition and objections to the
9 findings and recommendations. For these reasons, plaintiff's untimely opposition to defendants'
10 motion to dismiss and untimely objections to the findings and recommendations are disregarded.

11 Accordingly, IT IS HEREBY ORDERED that plaintiff's untimely opposition
12 (Dkt. No. 33) and untimely objections (Dkt. No. 40) are disregarded.

13 DATED: September 2, 2010

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17 KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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