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

KARLUK MAYWEATHERS,

Plaintiff,

No. 2:09-cv-3284 LKK KJN P

vs.

JAMES WALKER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

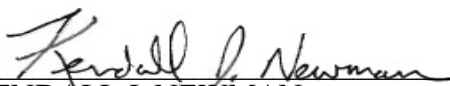
Pursuant to this court’s screening of plaintiff’s original complaint pursuant to 28 U.S.C. § 1915A(a), the court found that the complaint may state cognizable claims against defendants Nasir, Sudran and Swarthout, but did not state a claim against defendant Smith. (Dkt. No. 12.) The court gave plaintiff the option of proceeding on his original complaint or filing an amended complaint that added a cognizable claim against defendant Smith. Plaintiff chose to proceed on his original complaint against defendants Nasir, Sudran and Swarthout, effectively choosing to terminate this action against defendant Smith.

Accordingly, IT IS HEREBY RECOMMENDED that defendant Barry Smith be dismissed from this action.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 21 days

1 after being served with these findings and recommendations, plaintiff may file written objections
2 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
3 and Recommendations." Plaintiff is advised that failure to file objections within the specified
4 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
5 (9th Cir. 1991).

6 DATED: June 21, 2010

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11 KENDALL J. NEWMAN
12 UNITED STATES MAGISTRATE JUDGE

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