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

BILLY PAUL BIRDWELL, II,

Plaintiff,

No. CIV S-10-0719 KJM GGH P

vs.

M. CATE, et al.,

Defendants.

ORDER

_____ /

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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 23, 2011, the magistrate judge filed findings and recommendations, 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 has filed objections to the findings and recommendations.

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

1 However, plaintiff's objections attach his letters sent to the California Department
2 of Justice as well as the California Department of Corrections and Rehabilitation (CDCR)
3 revealing his diligent attempt to locate information on defendant Petersen in order to effect
4 service. (See ECF 71 at 3-5.) The court exercises its discretion to consider these letters, and in so
5 doing finds plaintiff has shown good cause why he has not yet served Petersen. Plaintiff's
6 objections suggest he has not received any response to his request for information sent to CDCR.
7 Accordingly, the court will extend the time by which plaintiff may serve Peterson. If plaintiff has
8 been unable to locate Peterson's information through his requests, he may petition the court for
9 assistance within the time set for him to effect service.

10 1. The court declines to adopt the findings and recommendations filed August
11 23, 2011;

12 2. The Clerk of the Court is directed to send to plaintiff one USM-285 form,
13 along with an instruction sheet and a copy of the amended complaint filed May 11, 2010;

14 3. Within sixty days from the date of this order, plaintiff shall complete and
15 submit the attached Notice of Submission of Documents to the court, with the following
16 documents:

17 a. One completed USM-285 form for each defendant;


18 b. Two copies of the endorsed amended complaint filed May 11, 2010;

19 and

20 c. One completed summons form (if not previously provided)

21 or show good cause why he cannot provide such information.

22 DATED: May 31, 2012.

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25 _____
26 UNITED STATES DISTRICT JUDGE

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

BILLY PAUL BIRDWELL, II,

Plaintiff,

No. CIV S-10-0719 KJM GGH P

vs.

M. CATES, et al.,

Defendants.

NOTICE OF SUBMISSION OF DOCUMENTS

_____ /

Plaintiff hereby submits the following documents in compliance with the court's
order filed March 30, 2012:

_____ completed summons form

_____ completed USM-285 forms

_____ copies of the May 11, 2010 Amended Complaint

DATED:

Plaintiff