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

ULF CARLSSON

Plaintiff,

No. CIV S-10-0774 FCD KJN (TEMP) P

vs.

PETER J. McBRIEN

Defendant.

ORDER

_____ /

Plaintiff has filed this civil rights action pro se 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 General Order No. 262.

On December 21, 2010, 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 twenty-one days. Defendants have 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 entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed December 21, 2010 are adopted in
3 full;

4 2. The motion to dismiss (Docket No. 19) is granted in part and denied in part.

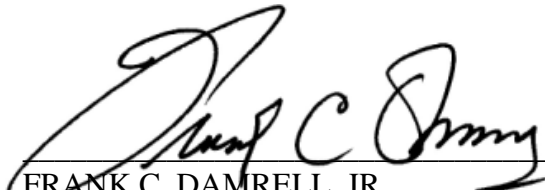
5 3. Plaintiff's § 1983 claims against defendant in his official capacity and for
6 declaratory relief are dismissed with prejudice.

7 4. Plaintiff's claims against defendant in his individual capacity under 42 U.S.C.
8 §§ 1983 and 1988 are dismissed without prejudice, with leave to amend.

9 5. The motion to dismiss as to the state law claim is denied.

10 6. Plaintiff has thirty days from the entry of this order in which to file an
11 amended complaint.

12 DATED: February 10, 2011.

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15 FRANK C. DAMRELL, JR.
16 UNITED STATES DISTRICT JUDGE
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