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

LEE EDWARD HARRIS,

Plaintiff,

No. 2:10-cv-1031 JAM EFB P

HIGH DESERT STATE PRISON, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This action proceeds on plaintiff’s claim that defendant Sisson violated his right to due process at a prison disciplinary hearing by: (1) not allowing him to call witnesses in his defense; and (2) finding him guilty despite evidence showing otherwise. Dckt. Nos. 30, 32. On September 14, 2012, defendant Sisson filed a motion for summary judgment, which establishes that the due process elements of *Wolff v. McDonnell*, 418 U.S. 539 (1974), were met at plaintiff’s disciplinary hearing, and that some evidence supported the finding of guilt. Dckt. No. 56.¹ On October 11, 2012, after plaintiff failed to respond to defendant’s motion, the court directed

¹ Defendant’s motion included notice to plaintiff of the requirements for opposing a motion for summary judgment. *See* Fed. R. Civ. P. 56; *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998).

1 plaintiff to file either an opposition or a statement of no opposition to the motion. Dckt. No. 58.

2 On October 25, 2012, plaintiff filed a statement of no opposition. Dckt. No. 59.

3 Accordingly, IT IS HEREBY RECOMMENDED that:

- 4 1. Defendant's motion for summary judgment be granted (Dckt. No. 56);
- 5 2. Judgment be entered in defendant's favor; and
- 6 3. The Clerk be directed to close this case.

7 These findings and recommendations are submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
9 after being served with these findings and recommendations, any party may file written
10 objections with the court and serve a copy on all parties. Such a document should be captioned
11 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
12 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
13 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

14 Dated: November 5, 2012.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE