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

JOSEPH WHITAKER,

Plaintiff,

No. 2:10-cv-1400 KJM EFB P

vs.

CHEN, 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 September 11, 2012, the magistrate judge filed findings and recommendations, which were served on the parties and which contained notice to the parties that any objections to the findings and recommendations were to be filed within fourteen days. No objections were filed. On February 11, 2013, this court adopted the magistrate judge’s findings and recommendations, but incorrectly identified this case as an application for a writ of habeas corpus; that order therefore will be vacated.


The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are

1 reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir.
2 1983). Having carefully reviewed the file, the court finds the findings and recommendations to
3 be supported by the record and by the proper analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The order filed February 11, 2013 is vacated;
- 6 2. The findings and recommendations filed September 11, 2012 are adopted in
7 full;
- 8 3. Defendant's motion for summary judgment (ECF 96) is granted;
- 9 4. The Clerk is directed to enter judgment in defendant's favor; and
- 10 5. The Clerk is directed to close this case.

11 DATED: February 19, 2013.

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14 UNITED STATES DISTRICT JUDGE
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