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

ELDRED NICHOLSON,

Plaintiff,

No. CIV S-10-1425 FCD EFB P

vs.

D. MEDINA, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a prisoner without counsel seeking relief for alleged civil rights violations. *See* 42 U.S.C. § 1983. By order filed December 22, 2010, the court found that plaintiff had stated sufficient allegations against defendants Medina and Shaw and informed plaintiff he could proceed against defendants Medina and Shaw only or file an amended complaint to attempt to state cognizable claims against other defendants. The court also informed plaintiff that the court would consider his decision to proceed only as to defendants Medina and Shaw as consent to the dismissal of plaintiff's defective claims against defendants Cate, McDonald, and Swingle, without prejudice. On December 30, 2010, plaintiff returned documents for service against defendants Medina and Shaw.

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1 Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's claims against
2 defendants Cate, McDonald, and Swingle be dismissed without prejudice.

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

10 Dated: January 11, 2011.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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