IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIO MALDONADO,

Plaintiff, No. CIV S-10-1944 GEB DAD P

vs.

RODRIGUEZ, et al.,

Defendants. ORDER

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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 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 8, 2011, the magistrate judge filed findings and recommendations herein which were served on plaintiff and defendant Gandy and which contained notice to them that any objections to the findings and recommendations were to be filed within twenty-one days. Neither party has filed objections to the findings and recommendations.[1]

[1] On January 19, 2012, the undersigned adopted the Magistrate Judge Drozd's findings and recommendations in full. At the time the court issued its order, neither party had filed objections to the findings and recommendations. In addition, it appeared that neither party intended to file any objections. It recently came to the court's attention, however, that plaintiff attempted to file a motion for extension of time to file objections to the findings and recommendations. Prison officials metered plaintiff's legal mail but failed to actually send it to

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed December 8, 2011, are adopted in full;

2. Defendant Gandy's motion to dismiss (Doc. No. 20) is granted in part and denied in part as follows:

a. Defendant's motion to dismiss pursuant to Rule 12(b)(6) is denied;

b. Defendant's motion to dismiss pursuant to unenumerated Rule 12(b) is granted; and

3. Plaintiff's motion to supplement his complaint (Doc. No. 37) is denied as moot.

Dated: June 22, 2012

GARLAND E. BURRELL, JR.
United States District Judge

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the court until recently. In light of those circumstances, on April 24, 2012, the undersigned vacated the January 19, 2012 order and granted plaintiff forty-five days to file any objections to Magistrate Judge Drozd's findings and recommendations. As noted above, plaintiff has not filed objections to the findings and recommendations.