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

BRIAN DARNELL EDWARDS,

Plaintiff,

No. 2:10-cv-3461 WBS KJN P

vs.

HIGH DESERT STATE PRISON, et al.,

ORDER AND

Defendants.

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On June 9, 2011, plaintiff was granted thirty days to file a second amended complaint to cure the pleading defects as to the claims against defendant McDonald. The June 9, 2011 order warned plaintiff that if he did not file a second amended complaint, the court would recommend dismissal of defendant McDonald for the reasons stated in the previously vacated findings and recommendations. Thirty days passed and plaintiff did not file an amended complaint. Accordingly, the undersigned recommends that defendant McDonald be dismissed for the reasons stated in the previously vacated findings and recommendations filed May 5, 2011 (Dkt. No. 17).

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1 On July 7, 2011, defendants Mitchell, Cheney, Swingle and Turner-Gamberg filed
2 a motion for extension of time to file a response to the amended complaint. Good cause
3 appearing, this motion is granted.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Defendants' motion for extension of time (Dkt. No. 25) is granted;
- 6 2. Defendants' response to the first amended complaint is due twenty-one days
7 following the adoption of the instant findings and recommendations recommending dismissal of
8 defendant McDonald;

9 IT IS HEREBY RECOMMENDED that defendant McDonald be dismissed.

10 These findings and recommendations are submitted to the United States District
11 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
12 one days after being served with these findings and recommendations, any party may file written
13 objections with the court and serve a copy on all parties. Such a document should be captioned
14 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
15 objections shall be filed and served within fourteen days after service of the objections. The
16 parties are advised that failure to file objections within the specified time may waive the right to
17 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: July 19, 2011

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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