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

ANDREW RAMIREZ,

Plaintiff,

No. 2:11-cv-0045-LKK-KJN-P

vs.

D. SWINGLE, 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 pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Cal. R. (“Local Rule”) 302(17) & 302(21).

On October 5, 2011 and January 20, 2012, plaintiff filed motions for injunctive relief (Dkt. Nos. 28 & 35). On February 24, 2012, defendants filed their opposition (Dkt. No. 38). On June 22, 2012, the Magistrate Judge ordered the defendants to file further briefing on the motions for injunctive relief (Dkt. No. 50). On July 20, 2012, defendants filed a summary judgment motion (Dkt. No. 53). Magistrate Judge Newman states that defendants’ summary judgment motion addressed “the issues requiring further briefing” (Dkt. No. 55).

However, on July 26, 2012, before plaintiff had an opportunity to submit his response to the defendants’ summary judgment-supplemental briefing, the Magistrate Judge filed Findings


1 and Recommendations denying plaintiff's motions for injunctive relief (Id.). No party filed
2 objections.

3 This court believes that plaintiff should have been given the opportunity to respond to
4 defendant's requested supplemental briefing, before the Findings and Recommendations were
5 issued. Since defendants' supplemental briefing was in the form of a motion for summary
6 judgment, plaintiff is entitled to include his own supplemental response in his opposition to the
7 summary judgment motion.

8 Accordingly, IT IS HEREBY ORDERED that this matter is **REMANDED** to the
9 Magistrate Judge for further proceedings not inconsistent with this order.

10 IT IS SO ORDERED.

11 DATED: September 28, 2012.

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15 LAWRENCE K. KARLTON
16 SENIOR JUDGE
17 UNITED STATES DISTRICT COURT
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