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

VIRGIL ELBERT,

Plaintiff,

No. 2:11-cv-01154 GEB EFB P

vs.

GARY SWARTHOUT, 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 Local Rule 302.

On August 24, 2012, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

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:

////

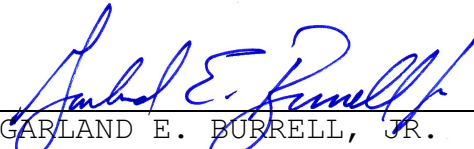
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1. The findings and recommendations filed August 24, 2012, are adopted in full;

and

2. Defendants' December 22, 2011 motion to dismiss (Docket No. 22) is granted with leave to file an amended complaint within 30 days of the date of this order.

Dated: September 21, 2012



GARLAND E. BURRELL, JR.
Senior United States District Judge