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

VIRGIL ROBERT ELBERT,

Plaintiff,

No. 2:11-cv-1154 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 October 29, 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 from the date the findings and recommendations were served. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire

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1 file, the court finds the findings and recommendations to be supported by the record and by
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed October 29, 2012 are adopted in full;
5 and

6 2. Defendant Swarthout is dismissed from this action for failure to state a claim
7 upon which relief may be granted.

8 So ordered.

9 Dated: November 20, 2012

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