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

DAVID SMITH,

Plaintiff,

No. 2:11-cv-1918 JAM CKD P

vs.

KIESZ,

Defendant.

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 June 20, 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 twenty-one 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 June 20, 2012, are adopted in full;
2. The motion to dismiss (Docket No. 16) is DENIED; and
3. Defendant shall file an answer within thirty days of the filed date of this order.

DATED: September 11, 2012

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE