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

TONY ASBERRY,

Plaintiff,

No. Civ S-11-2462 KJM KJN P

vs.

MATTHEW CATE, et al.,

Defendants.

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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 6, 2012, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within twenty-one days. Plaintiff has filed objections to the findings and recommendations. In the objections, plaintiff complains that he did not file a second amended complaint but that the magistrate judge screened something which he characterized as a second amended complaint. It appears that an additional copy of the first amended complaint was docketed as the second amended complaint, as the documents are the same, and so what plaintiff believes should have been screened was in fact screened.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule  
2 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the file,  
3 the court finds the findings and recommendations to be supported by the record and by the  
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed January 6, 2012, which incorporate  
7 the order also filed January 6, 2012, are adopted in full; and
- 8 2. Defendant Cate is dismissed.

9 DATED: March 26, 2012.

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12 UNITED STATES DISTRICT JUDGE

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