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

TONY ASBERRY,

Plaintiff,

No. 2: 11-cv-2462 KJM KJN P

vs.

MATTHEW CATE, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

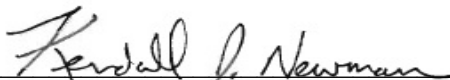
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Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On July 23, 2012, the undersigned issued an order screening the third amended complaint filed June 11, 2012 (docketed as the “second amended complaint”). (See Dkt. No. 49.) In this order, the undersigned found that plaintiff had not stated potentially cognizable claims against defendant Cate. The undersigned also found that plaintiff had not stated a potentially cognizable retaliation claim against any defendant. For the reasons stated in that order, the undersigned recommends that defendant Cate and plaintiff’s retaliation claim against all defendants be dismissed.

Accordingly, IT IS HEREBY RECOMMENDED that defendant Cate and the retaliation claims against all defendants contained in the third amended complaint filed June 11, 2012 (docketed as the “second amended complaint”) be dismissed.

1 These findings and recommendations are submitted to the United States District
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
3 days after being served with these findings and recommendations, any party may file written
4 objections with the court and serve a copy on all parties. Such a document should be captioned
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
6 shall be served and filed within fourteen days after service of the objections. The parties are
7 advised that failure to file objections within the specified time may waive the right to appeal the
8 District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: August 7, 2012

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12 KENDALL J. NEWMAN
13 UNITED STATES MAGISTRATE JUDGE

13 as2462.57