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

KENNETH ARDELL SMITH, JR.,

Plaintiff,

No. CIV 2:11-cv-3351-MCE-JFM (PS)

vs.

SACRAMENTO COUNTY SHERIFF'S
DEP'T, *et al.*,

Defendants.

ORDER AND
FINDINGS & RECOMMENDATIONS

_____/

Plaintiff, proceeding pro se and in forma pauperis, filed the instant action on December 19, 2011 against officers at the Sacramento County Main Jail, who allegedly used excessive force against plaintiff and then filed falsified charges against him. The alleged acts occurred on or around December 30, 1999. On March 19, 2011, plaintiff was ordered to show cause why this action should not be dismissed as untimely. See Doc. No. 3. Plaintiff has filed a response. Doc. No. 4.

On review, IT IS HEREBY ORDERED that the order to show cause is vacated;
and

IT IS HEREBY RECOMMENDED that, for the reasons set forth in this court's March 19, 2012 order to show cause, this action be dismissed as untimely.

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.” The parties are advised
6 that failure to file objections within the specified time may waive the right to appeal the District
7 Court’s order. Martinez v. Ylst, 95 1 F.2d 1153 (9th Cir. 1991).

8 DATED: July 9, 2012.

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11 UNITED STATES MAGISTRATE JUDGE

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