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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARTIN WARE,

 Plaintiff,

 v.

M. McDONALD, et al.,

 Defendants.

No. 2:12-cv-1505 TLN KJN P

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 September 3, 2013, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff filed objections to the findings and recommendations.

It appears that plaintiff may have misunderstood the order and findings and recommendations, because plaintiff states that he agrees with the court’s decision to dismiss the First and Fourteenth Amendment claims, but objects to the court’s conclusions concerning plaintiff’s Eighth Amendment claims. (ECF No. 44 at 1-2.) However, the magistrate judge found plaintiff’s Eighth Amendment and state law claims were cognizable and directed plaintiff to

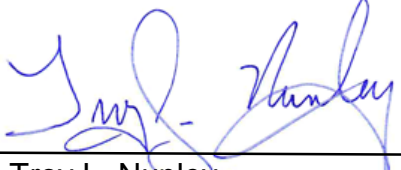
1 complete and return the forms for service of process on defendants. Thus, in order for these
2 claims to proceed, plaintiff must complete and return the forms provided with the September 3,
3 2013 order. The undersigned will provide plaintiff an extension of time in which to comply.

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

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The findings and recommendations filed September 3, 2013, are adopted in full;
- 10 2. Plaintiff's First and Fourteenth Amendment claims are dismissed;
- 11 3. This action proceeds on plaintiff's Eighth Amendment and state law claims; and
- 12 4. Within thirty days from the date of this order, plaintiff shall complete the Notice of
13 Submission of Documents and submit the documents provided with the September 3, 2013 order.
14 Plaintiff is cautioned that failure to comply with this order will result in the dismissal of this
15 action.

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17 Dated: November 19, 2013

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Troy L. Nunley
United States District Judge

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