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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT BENYAMINI,
Plaintiff,
v.
M. BLACKBURN, et al.,
Defendants.

No. 2:13-cv-0205 MCE AC P

ORDER

Plaintiff, a former 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 March 23, 2017, 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 fourteen days. ECF No. 103. Defendants filed objections to the findings and recommendations on April 10, 2017. ECF No. 104.

Plaintiff thereafter moved to strike Defendants’ objections as tardy, which motion the magistrate judge denied. ECF Nos. 105, 106. Plaintiff then filed a motion for reconsideration of that order arguing, inter alia, that the court inadvertently miscalculated Defendants’ deadline for filing objections. ECF No. 7. Defendants filed a response conceding that the objections were

1 indeed late, but arguing that Plaintiff was not prejudiced by the tardy filing and therefore
2 requesting that the court consider the objections. ECF No. 108.

3 With regard to Plaintiff's motion for reconsideration, the Court finds Defendants have the
4 better argument. Because Defendants objections were not substantially late, the Court finds
5 Plaintiff was not prejudiced by the delay, and the Court has—in its discretion—considered those
6 objections. Plaintiff's motion for reconsideration of the court's order on Plaintiff's motion to
7 strike, then, is DENIED. Even so, the Court nevertheless finds Defendants' objections to be
8 unavailing.


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

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's motion for reconsideration (ECF No. 107) is DENIED;
15 2. The findings and recommendations filed March 23, 2017 (ECF No. 103), are
16 ADOPTED IN FULL; and
17 2. Defendants' motion for an order declaring Plaintiff a vexatious litigant and requiring
18 security (ECF No. 88) is DENIED.

19 IT IS SO ORDERED.

20 Dated: June 20, 2017

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22 MORRISON C. ENGLAND, JR.
23 UNITED STATES DISTRICT JUDGE
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