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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN PATRICK WINKLEMAN,
Plaintiff,
v.
CDCR,
Defendants.

No. 2:13-cv-1480 MCE DAD 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 January 14, 2015, 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. Neither party has filed objections to the findings and recommendations.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1 1. The findings and recommendations filed January 14, 2015 (ECF No. 27), are
2 ADOPTED in full;

3 2. Defendants' motion to dismiss (ECF No. 15) is GRANTED in part and DENIED in
4 part as follows:

5 a. Defendants' motion to dismiss plaintiff's suit for damages against defendant
6 CDCR is GRANTED;

7 b. Defendants' motion to dismiss plaintiff's request for injunctive relief against
8 defendant CDCR is GRANTED;

9 c. Defendant CDCR is DISMISSED from this action;


10 d. Defendants' motion to dismiss plaintiff's complaint for failure to state a claim
11 against defendants Anthony and Nicolau is DENIED;

12 e. Defendants' motion to dismiss based on the affirmative defense of qualified
13 immunity is DENIED; and

14 3. Defendants Anthony and Nicolau are directed to file an answer within thirty (30) days
15 of the order adopting these findings and recommendations.

16 IT IS SO ORDERED.

17 Dated: March 10, 2015

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
21 UNITED STATES DISTRICT COURT
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