

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL HICKS,
Plaintiff,
v.
BEHROZ HAMKAR et al.,
Defendants.

No. 2:13-cv-1687 KJM 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 25, 2015, the magistrate judge filed an order and findings and recommendations, 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. 29. Plaintiff has filed objections to the order and findings and recommendations, ECF No. 32, defendants have filed a response to plaintiff's objections, ECF No. 35, and plaintiff has filed a reply, ECF No. 37.

There are no objections to the magistrate judge's findings and recommendations concerning defendants' motion to revoke plaintiff's in forma pauperis (IFP) status. The court has

////

1 reviewed the file and finds those findings and recommendations to be supported by the record and
2 by the magistrate judge's analysis. Accordingly, they will be adopted in full.

3 Plaintiff's objections, defendants' response, and plaintiff's reply all center on the
4 magistrate judge's order denying plaintiff's motion for preliminary injunction, ECF No. 27, as
5 mooted by plaintiff's transfer to Mule Creek State Prison. The court construes the objections as a
6 request for reconsideration of the magistrate judge's order. In his objections and his reply to
7 defendants' response, plaintiff raises arguments that call into question whether his motion for
8 injunctive relief has in fact been mooted by his transfer or whether the alleged Eighth
9 Amendment violation with respect to care for his arthritic condition is ongoing. Good cause
10 appearing, the order will be vacated and the matter will be referred back to the magistrate judge
11 for further proceedings and issuance of findings and recommendations on plaintiff's motion for
12 preliminary injunction.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The findings and recommendations filed March 25, 2015, are adopted in full;
- 15 2. Defendant's motion to revoke plaintiff's IFP status (Doc. No. 20) is denied;
- 16 3. Within forty-five (45) days of the date of this order, defendants are directed to file a
17 response to plaintiff's first amended complaint; and
- 18 4. The magistrate judge's March 25, 2015 order denying plaintiff's January 20, 2015
19 motion for preliminary injunction is vacated and the matter is referred back to the magistrate
20 judge for further proceedings and issuance of findings and recommendations on said motion.

21 DATED: September 22, 2015.

22
23 
24 _____
25 UNITED STATES DISTRICT JUDGE
26
27
28