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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UMAR SHAHID,
Plaintiff,
v.
I. ALDAZ et al.,
Defendants.

No. 2:14-cv-0454 JAM KJN P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se, with a civil rights action seeking relief under 42 U.S.C. § 1983. This matter is before the court on the parties’ cross-motions for summary judgment brought pursuant to Rule 56 of the Federal Rules of Civil Procedure.

For the reasons discussed below, the court recommends denying plaintiff’s motion for summary judgment and granting defendant’s motion for summary judgment.

BACKGROUND

Plaintiff is proceeding on a second amended complaint against defendant Rodriguez for his alleged interference with plaintiff’s right to marry. Specifically, plaintiff alleges that the defendant refused to process his marriage application, which plaintiff’s fiancée Aurielle Walton had sent to the prison. According to plaintiff, his fiancée broke off their engagement as a result of the stress of the situation. In terms of relief, plaintiff seeks monetary damages. (Sec. Am. Compl. at 3.)

1 admissible discovery material, in support of its contention that the dispute exists. See Fed. R.
2 Civ. P. 56(c)(1); Matsushita, 475 U.S. at 586 n.11. The opposing party must demonstrate that the
3 fact in contention is material, i.e., a fact that might affect the outcome of the suit under the
4 governing law, see Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986); T.W. Elec. Serv.,
5 Inc. v. Pacific Elec. Contractors Ass’n, 809 F.2d 626, 630 (9th Cir. 1987), and that the dispute is
6 genuine, i.e., the evidence is such that a reasonable jury could return a verdict for the nonmoving
7 party, see Wool v. Tandem Computers, Inc., 818 F.2d 1433, 1436 (9th Cir. 1987).

8 In the endeavor to establish the existence of a factual dispute, the opposing party need not
9 establish a material issue of fact conclusively in its favor. It is sufficient that “the claimed factual
10 dispute be shown to require a jury or judge to resolve the parties’ differing versions of the truth at
11 trial.” T.W. Elec. Serv., 809 F.2d at 631. Thus, the “purpose of summary judgment is to ‘pierce
12 the pleadings and to assess the proof in order to see whether there is a genuine need for trial.’”
13 Matsushita, 475 U.S. at 587 (citations omitted).

14 “In evaluating the evidence to determine whether there is a genuine issue of fact,” the
15 court draws “all reasonable inferences supported by the evidence in favor of the non-moving
16 party.” Walls v. Central Costa County Transit Authority, 653 F.3d 963, 966 (9th Cir. 2011). It is
17 the opposing party’s obligation to produce a factual predicate from which the inference may be
18 drawn. See Richards v. Nielsen Freight Lines, 602 F. Supp. 1224, 1244-45 (E.D. Cal. 1985),
19 aff’d, 810 F.2d 898, 902 (9th Cir. 1987). Finally, to demonstrate a genuine issue, the opposing
20 party “must do more than simply show that there is some metaphysical doubt as to the material
21 facts Where the record taken as a whole could not lead a rational trier of fact to find for the
22 nonmoving party, there is no ‘genuine issue for trial.’” Matsushita, 475 U.S. at 587 (citation
23 omitted).

24 OTHER APPLICABLE LEGAL STANDARDS

25 I. Civil Rights Act Pursuant to 42 U.S.C. § 1983

26 The Civil Rights Act under which this action was filed provides as follows:

27 Every person who, under color of [state law] . . . subjects, or causes
28 to be subjected, any citizen of the United States . . . to the
deprivation of any rights, privileges, or immunities secured by the

1 Constitution . . . shall be liable to the party injured in an action at
2 law, suit in equity, or other proper proceeding for redress.

3 42 U.S.C. § 1983. The statute requires that there be an actual connection or link between the
4 actions of the defendants and the deprivation alleged to have been suffered by plaintiff. See
5 Monell v. Department of Social Servs., 436 U.S. 658 (1978); Rizzo v. Goode, 423 U.S. 362
6 (1976). “A person ‘subjects’ another to the deprivation of a constitutional right, within the
7 meaning of § 1983, if he does an affirmative act, participates in another’s affirmative acts or
8 omits to perform an act which he is legally required to do that causes the deprivation of which
9 complaint is made.” Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

10 Moreover, supervisory personnel are generally not liable under § 1983 for the actions of
11 their employees under a theory of respondeat superior and, therefore, when a named defendant
12 holds a supervisory position, the causal link between him and the claimed constitutional
13 violation must be specifically alleged. See Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979);
14 Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978). Vague and conclusory allegations
15 concerning the involvement of official personnel in civil rights violations are not sufficient. See
16 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

17 II. The Fourteenth Amendment

18 The United States Supreme Court has held that prisoners have a constitutional right to
19 marry. See Turner v. Safely, 482 U.S. 89, 95-96 (1987) (citing Zablocki v. Redhail, 434 U.S. 374
20 (1978), and Loving v. Virginia, 388 U.S. 1, 12 (1967)). “When a prison regulation impinges on
21 inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate
22 penological interests.” Turner, 482 U.S. at 89. A court must consider four factors to determine
23 whether a prison regulation is reasonable: (1) whether “there [is] a ‘valid, rational connection’
24 between the prison regulation and the legitimate governmental interest put forward to justify it”;
25 (2) “whether there are alternative means of exercising the right that remain open to prison
26 inmates”; (3) “the impact accommodation of the asserted constitutional right will have on guards
27 and other inmates, and on the allocation of prison resources generally”; and (4) “the absence of
28 ready alternatives is evidence of the reasonableness of a prison regulation.” Id. at 89-90.

1 III. Qualified Immunity

2 Government officials enjoy qualified immunity from civil damages unless their conduct
3 violates clearly established statutory or constitutional rights. Jeffers v. Gomez, 267 F.3d 895, 910
4 (9th Cir. 2001) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)). When a court is
5 presented with a qualified immunity defense, the central questions for the court are: (1) whether
6 the facts alleged, taken in the light most favorable to the plaintiff, demonstrate that the
7 defendant’s conduct violated a statutory or constitutional right; and (2) whether the right at issue
8 was “clearly established.” Saucier v. Katz, 533 U.S. 194, 201 (2001). The Supreme Court has
9 held that “while the sequence set forth there is often appropriate, it should no longer be regarded
10 as mandatory.” Pearson v. Callahan, 555 U.S. 223, 236 (2009). In this regard, if a court decides
11 that plaintiff’s allegations do not make out a statutory or constitutional violation, “there is no
12 necessity for further inquiries concerning qualified immunity.” Saucier, 533 U.S. at 201.
13 Likewise, if a court determines that the right at issue was not clearly established at the time of the
14 defendant’s alleged misconduct, the court may end further inquiries concerning qualified
15 immunity at that point without determining whether the allegations in fact make out a statutory or
16 constitutional violation. Pearson, 555 U.S. at 236-242.

17 “A government official’s conduct violate[s] clearly established law when, at the time of
18 the challenged conduct, ‘[t]he contours of [a] right [are] sufficiently clear’ that every ‘reasonable
19 official would have understood that what he is doing violates that right.’” Ashcroft v. al-Kidd,
20 131 S. Ct. 2074, 2083 (2011) (quoting Anderson v. Creighton, 483 U.S. 635 (1987)). In this
21 regard, “existing precedent must have placed the statutory or constitutional question beyond
22 debate.” Id.; see also Clement v. Gomez, 298 F.3d 898, 906 (9th Cir. 2002) (“The proper inquiry
23 focuses on . . . whether the state of the law [at the relevant time] gave ‘fair warning’ to the
24 officials that their conduct was unconstitutional.”) (quoting Saucier, 533 U.S. at 202). The
25 inquiry must be undertaken in light of the specific context of the particular case. Saucier, 533
26 U.S. at 201. Because qualified immunity is an affirmative defense, the burden of proof initially
27 lies with the official asserting the defense. See Harlow, 457 U.S. at 812.

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1 **PLAINTIFF’S STATEMENT OF UNDISPUTED FACTS AND EVIDENCE**

2 In support of his motion for summary judgment, plaintiff submitted a declaration signed
3 under penalty of perjury. Attached to plaintiff’s declaration is a copy of his CDCR 22 Request
4 for Interview form inquiring about the status of his marriage application, a copy of his CDCR 602
5 inmate appeal also asking about the status of his marriage application, prison officials’ responses
6 to plaintiff’s CDCR 602 inmate appeal, a memorandum from Marriage Coordinator A. Wallace,
7 and various correspondence between plaintiff and the County of Lassen (Office of the County
8 Clerk Recorder) and the Lassen County Superior Court. The evidence submitted by plaintiff in
9 support of his motion for summary judgment appears to establish the following.

- 10 1. On or about October 17, 2013, plaintiff and his fiancée submitted a marriage application
11 to High Desert State Prison in accordance with prison procedure. They did not hear or
12 receive a response from prison officials, so on or about on October 30, 2013, plaintiff
13 submitted a CDCR 22 Request for Interview form. According to plaintiff, prison officials
14 did not respond to it. Plaintiff declares that defendant Rodriguez was Acting Marriage
15 Coordinator. (Pl.’s Decl. at ¶ 1, Ex. A)
- 16 2. On November 20, 2013, plaintiff filed a CDCR 602 inmate appeal complaining about staff
17 not processing his marriage application. Pursuant to High Desert State Prison procedure,
18 an inmate seeking to get married must ask the marriage coordinator to process his
19 marriage license with Lassen County. (Pl.’s Decl. at ¶ 2, Exs. A-C)
- 20 3. On January 8, 2014, defendant Rodriguez called plaintiff to the program office to conduct
21 a hearing regarding his inmate appeal concerning the delay in processing his marriage
22 application. According to plaintiff, defendant Rodriguez stated that he was acting
23 marriage coordinator and granted plaintiff’s inmate appeal. Defendant Rodriguez also
24 stated a marriage date would be set. (Pl.’s Decl. at ¶ 3, Ex. D)
- 25 4. Plaintiff received a memo from Marriage Coordinator Wallace, dated December 18, 2013,
26 that stated his marriage application had been approved and his wedding date had been
27 scheduled for January 18, 2014. However, according to plaintiff, defendant Rodriguez
28 stated that plaintiff could not get married because his fiancée was found guilty of a

1 visiting room violation. Plaintiff declares that he received a write-up for the same alleged
2 visiting room violation, but a correctional hearing officer dismissed it in the interest of
3 justice because he determined that the officer had fabricated the write-up. (Pl.'s Decl. at ¶
4 4, Pl.'s Mem. of P. & A. Ex. B)

5 5. Pursuant to High Desert State Prison marriage procedures, prison officials are supposed to
6 send a marriage application to the Lassen County Clerk on an inmate's behalf. Defendant
7 Rodriguez stated that plaintiff's marriage date had been set and granted plaintiff's appeal,
8 but plaintiff declares that the defendant did not follow through with the relief he stated he
9 would give plaintiff, thus obstructing plaintiff's right to marry. (Pl.'s Decl. at ¶ 5, Ex. C)

10 6. On May 30, 2014, plaintiff's fiancée informed him that due to all of the stress this
11 situation was causing, she no longer wanted to continue the engagement. (Pl.'s Decl. at ¶
12 9)

13 **DEFENDANT'S STATEMENT OF UNDISPUTED FACTS AND EVIDENCE**

14 In support of defendant Rodriguez's motion for summary judgment, defense counsel has
15 submitted a statement of undisputed facts supported by citations to declarations signed under
16 penalty of perjury by defendant Rodriguez and non-party Marriage Coordinator A. Wallace.
17 Attached to defendant Rodriguez's declaration is a copy of plaintiff's visitation history with his
18 fiancée, a copy of the visiting room rules, a copy of the visiting room disciplinary log, a copy of
19 the Notice of Visitor Termination given to plaintiff's fiancée for excessive physical contact, and a
20 copy of the Notice of Visitor Suspension also given to plaintiff's fiancée. Attached to Marriage
21 Coordinator Wallace's declaration is a copy of relevant sections of the High Desert State Prison
22 Supplement Operations Manual, a copy of the High Desert State Prison Marriage Application,
23 and a copy of the memorandum from Wallace to plaintiff, informing him that his marriage
24 application had been approved and his wedding date was scheduled for January 18, 2014. The
25 evidence submitted by defense counsel in support of defendant's motion for summary judgment
26 appears to establish the following.

27 1. All eligible High Desert State Prison ("HDSP") inmates may apply for an inmate
28 marriage. (Wallace Decl. at ¶ 2, Ex. A (High Desert State Prison Supplemental

- 1 Operations Manual (“HDSP SDOM”), § 101070.8 (Sept. 2013 rev.))
- 2 2. In order to schedule a wedding ceremony, the inmate and his fiancée must first complete a
- 3 marriage application. (Wallace Decl. at ¶ 3, Ex. A (HDSP SDOM, § 101070.8))
- 4 3. Assuming the application is properly completed, the Marriage Coordinator will set a date
- 5 for the ceremony, and will notify the inmate of the scheduled wedding date. (Wallace
- 6 Decl. at ¶ 3, Ex. A (HDSP SDOM, § 101070.8))
- 7 4. Assuming the application is properly completed, the Marriage Coordinator will submit the
- 8 marriage application to the Lassen County Clerk’s Office for processing. (Wallace Decl.
- 9 at ¶ 3, Ex. A (HDSP SDOM, § 101070.8))
- 10 5. There is no specific timeframe for the Marriage Coordinator to submit an application to
- 11 the County Clerk’s Office, but because inmate marriages are scheduled once per month,
- 12 the Marriage Coordinator regularly performs this task on a monthly basis as needed.
- 13 (Wallace Decl. at ¶ 3)
- 14 6. Inmate marriage ceremonies take place in the HDSP visiting room. (Wallace Decl. at ¶ 4)
- 15 7. All HDSP rules and regulations regarding inmate visits are strictly enforced during
- 16 wedding ceremonies, and anyone not permitted to enter the HDSP visiting room cannot
- 17 attend the wedding ceremony. (Wallace Decl. at ¶ 4, Ex. A (HDSP SDOM, § 101070.6))
- 18 8. If the visiting privileges of an inmate’s fiancée have been suspended, the wedding will be
- 19 postponed until the fiancée’s visiting privileges are restored. (Wallace Decl. at ¶ 5.)
- 20 9. The County Clerk will not perform ceremonies behind glass. (Wallace Decl. at ¶ 5; Ex. A
- 21 (HDSP SDOM, § 101070.8))
- 22 10. On December 6, 2013, A. Wallace, then-Acting Marriage Coordinator, received a
- 23 marriage application for plaintiff and Aurielle Walton. (Wallace Decl. at ¶ 7, Ex. B)
- 24 11. Acting Marriage Coordinator Wallace sent a confirmation to plaintiff of receipt of the
- 25 application on December 18, 2013, and notified him that his marriage application had
- 26 been approved and that his wedding date was scheduled for January 18, 2014. (Wallace
- 27 Decl. at ¶ 7, Ex. B)
- 28 12. On January 1, 2014, Aurielle Walton visited plaintiff in the visiting room at HDSP.

- 1 (Rodriguez Decl. at ¶ 2, Ex. A)
- 2 13. Prison officials terminated this visit because plaintiff and Aurielle Walton engaged in
- 3 excessive contact, which is a violation of the HDSP visiting room rules. The visiting
- 4 room officer on duty issued Ms. Walton a Notice of Visitor Termination, which defendant
- 5 Rodriguez approved on the following day. (Rodriguez Decl. at ¶¶ 4, 6, 7, 8, Exs. B, C, D)
- 6 14. On the same day, the visiting room officer issued Ms. Walton a Notice of Visitor
- 7 Suspension, suspending Ms. Walton's visiting privileges for six months. Defendant
- 8 Rodriguez approved it on the following day. (Rodriguez Decl. at ¶ 9, Ex. E)
- 9 15. Prison officials had verbally disciplined plaintiff and Ms. Walton for engaging in
- 10 excessive contact in violation of the visiting room rules on two prior occasions.
- 11 (Rodriguez Decl. at ¶¶ 6, 8 Exs. C, D)
- 12 16. Plaintiff and Ms. Walton's wedding date was set for January 18, 2014, when their
- 13 visitation privileges were suspended, so the Marriage Coordinator did not send plaintiff's
- 14 marriage application to the County Recorder's Office. Plaintiff's wedding could not have
- 15 taken place in the HDSP visiting area between January 1, 2014, and the June 30, 2014
- 16 date. (Wallace Decl. at ¶ 9)
- 17 17. While Marriage Coordinator Wallace was temporarily out of the office, defendant
- 18 Rodriguez responded to a grievance submitted by plaintiff. Defendant Rodriguez was not
- 19 the Acting Marriage Coordinator, nor did he ever inform plaintiff that he was the Acting
- 20 Marriage Coordinator. Rather, he responded to plaintiff's inquiry about the status of his
- 21 marriage application in his capacity as a Visiting Sergeant. (Rodriguez Decl. at ¶ 10)
- 22 18. Defendant Rodriguez interviewed plaintiff and informed him that his marriage application
- 23 was complete and that a wedding date had been set for January 18, 2014. (Rodriguez
- 24 Decl. at ¶ 11)

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1 **ANALYSIS**

2 In resolving cross-motions for summary judgment, the court must consider each party’s
3 evidence. See Johnson v. Poway Unified School District, 658 F.3d 954, 960 (9th Cir. 2011).
4 Because in this case plaintiff will bear the burden of proof at trial on his claims, in order to
5 prevail on summary judgment he must affirmatively demonstrate that based upon the undisputed
6 facts no reasonable trier of fact could find other than for him. See Soremekun v. Thrifty Payless,
7 Inc., 509 F.3d 978, 984 (9th Cir. 2007). Because defendant Rodriguez does not bear the burden
8 of proof at trial, in moving for summary judgment, he need only prove an absence of evidence to
9 support plaintiff’s case. See Oracle Corp., 627 F.3d at 387.

10 Based on all of the evidence presented in connection with the pending cross-motions for
11 summary judgment, and for the reasons stated below, the undersigned concludes that plaintiff’s
12 motion for summary judgment should be denied, and defendant’s motion for summary judgment
13 should be granted.

14 I. Plaintiff’s Motion for Summary Judgment

15 As to plaintiff’s motion for summary judgment, the court finds that plaintiff has failed to
16 establish beyond dispute that defendant Rodriguez interfered with his right to marry in violation
17 of the Fourteenth Amendment. As an initial matter, the evidence plaintiff has presented on
18 summary judgment fails to establish that defendant Rodriguez actually interfered with his right to
19 marry. It is well established that there can be no liability under 42 U.S.C. § 1983 unless there is
20 some affirmative link or connection between a defendant’s actions and the claimed deprivation.
21 Rizzo, 423 U.S. 362; May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980). In this case, plaintiff
22 declares that at the time he spoke with defendant Rodriguez regarding his inmate appeal about his
23 marriage application, defendant Rodriguez told him he was the acting marriage coordinator and
24 that a marriage date would be set. (Pl.’s Decl. at ¶¶ 3 & 5.) Plaintiff then speculates that
25 defendant Rodriguez did not “follow through” with what he said after that meeting. (Id. ¶ 5.)
26 However, plaintiff has submitted no evidence to show defendant Rodriguez took any affirmative
27 action or failed to perform an act he was legally required to do that resulted in plaintiff’s marriage
28 delay. Johnson, 588 F.2d at 743.

1 Moreover, in considering plaintiff's motion for summary judgment, the court is required
2 to believe defendant Rodriguez's evidence and draw all reasonable inferences from the facts
3 before the court in defendant's favor. Drawing all reasonable inferences from the evidence
4 presented in defendant's favor, the court finds that defendant Rodriguez submitted evidence
5 sufficient to create a genuine issue of material fact with respect to plaintiff's claim that defendant
6 Rodriguez interfered with his right to marry.

7 Specifically, defendant Rodriguez submitted evidence that demonstrates that non-party
8 Marriage Coordinator Wallace sent plaintiff confirmation of receipt of his marriage application
9 on December 18, 2013, and she notified him that his marriage application had been approved and
10 his wedding date scheduled for January 18, 2014. (Wallace Decl. at ¶ 8.) Not long thereafter,
11 however, Marriage Coordinator Wallace (and not defendant Rodriguez) decided not to send
12 plaintiff's marriage application to the County Recorder's Office because plaintiff's marriage date
13 was set during the timeframe in which prison officials had suspended plaintiff and his fiancée's
14 visiting privileges. (*Id.* ¶ 9.) It is undisputed that inmate marriage ceremonies take place in the
15 HDSP visiting room, and if prison officials have suspended the visiting privileges of an inmate's
16 fiancée, they will postpone the wedding until after they have restored the fiancée's visiting
17 privileges. (*Id.* ¶ 5.) The County Clerk will not perform marriage ceremonies behind glass. (*Id.*)
18 Based on this evidence, the court finds that a jury could conclude that plaintiff and his fiancée
19 and/or Marriage Coordinator Wallace (and not defendant Rodriguez) was responsible for any
20 delay plaintiff experienced in his marriage date.

21 Finally, plaintiff has not submitted any evidence to show that prison officials delayed his
22 marriage for reasons not reasonably related to legitimate penological interests. In a case similar
23 to this one, the United States District Court for the Northern District of California rejected a
24 prisoner's claim that prison officials had interfered with his right to marry when they delayed his
25 wedding date until after they reinstated his fiancée's visitation privileges. Castellanos v. Gomez,
26 No. C-93-0503 MHP, 1994 WL 519465 (N.D. Cal. Sept. 21, 1994). In Castellanos, prison
27 officials granted Lara Campanaro visiting privileges at Pelican Bay State Prison in August 1990,
28 but suspended them in 1992, because they suspected her of participating in gang-related activities.

1 Id. at *1. Subsequently, Castellanos identified Campanaro as his fiancée and sought information
2 about marriage regulations at the prison. Id. at *2. Although Castellanos had submitted the
3 necessary documents and met all of the legal requirements to marry, prison officials would not
4 process his marriage request because they had Campanaro on a restricted visitation status. Id.
5 Ultimately, prison officials failed to substantiate any evidence that linked Campanaro to a gang
6 and reinstated her visitation privileges. Id. The couple wed at the prison in 1993. Id.

7 The Northern District of California rejected Castellanos’s right-to-marry claim and held:

8 Prison officials’ delay in allowing Castellanos and Campanaro to
9 marry clearly satisfied the Turner test. As explained above,
10 officials reasonably believed that Campanaro could be a security
11 threat and thus restricted her visitation privileges. This same
12 security rationale provides an adequate justification for their
13 delaying the marriage as well. Moreover, the prison officials’
14 actions were not an “exaggerated response” to the perceived
15 security threat and reasonably accommodated Castellanos’ right to
16 marry. . . . Castellanos and Campanaro were married less than one
17 year after he first requested general information on marriage
18 procedures for SHU inmates. Within six months, officials had put
19 the appropriate procedures in place and had determined that
20 Campanaro’s visitation privileges could be reinstated; the balance
21 of the delay was attributable to Campanaro’s delay in submitting
22 the appropriate materials and to reasonable processing time by the
23 County Clerk.

24 Especially considering the great degree of deference that courts
25 must show to prison officials, it is clear that defendants’ regulation
26 of Castellanos’ marriage to Campanaro was eminently reasonable
27 and did not rise to the level of a constitutional violation.

28 Castellanos, No. C-93-0503 MHP, 1994 WL 519465 at *6. See also Ford v. Fischer, No. 9:09-
CV-723 (DNH/ATB), 2-12 WL 4754560 (N.D.N.Y. Aug. 7, 2012) (denial of prisoner’s right to
marry based on his long-term SHU placement was reasonably related to legitimate penological
interests), modified on other grounds by 2012 WL 4748848 (N.D.N.Y. Oct. 4, 2012).

Similar to the court in Castellanos, the undersigned finds in this case that plaintiff has not
shown that the marriage delay he experienced rose to the level of a constitutional violation.
Although plaintiff has a constitutional right to marry, his right to marry like many other rights is
subject to substantial restrictions as a result of his incarceration. Turner, 482 U.S. at 95. The
undisputed evidence before the court demonstrates that prison officials had twice verbally
disciplined plaintiff and his fiancée for violating visiting room rules during prior visits, but they

1 continued to engage in excessive contact on January 1, 2014, resulting in prison officials
2 terminating their visit and suspending their visitation privileges.¹ (Rodriguez Decl. at ¶¶ 6-8 &
3 Exs. C-E.) Under these circumstances, this court cannot say that prison officials engaged in an
4 “exaggerated response” when they suspended their visitation privileges and delayed plaintiff’s
5 marriage date. Turner, 482 U.S. at 99 (prison officials may regulate the time and circumstances
6 of a marriage ceremony). Nor has plaintiff given this court any reason to doubt that there are
7 legitimate security concerns that justify the visiting room rules, which allow inmates to briefly
8 embrace and kiss their visitor at the beginning and end of their visit but prohibit other physical
9 contact aside from holding hands above the visiting table. (Rodriguez Decl., Ex. B.)

10 Accordingly, for all of the foregoing reasons, the court recommends denying plaintiff’s
11 motion for summary judgment.

12 II. Defendant’s Motion for Summary Judgment

13 The court turns now to defendant Rodriguez’s motion for summary judgment on
14 plaintiff’s Fourteenth Amendment claim. The court finds that defendant Rodriguez has met the
15 initial burden of demonstrating that there is no genuine issue of material fact with respect to the
16 plaintiff’s Fourteenth Amendment claim. Specifically, defendant Rodriguez’s evidence
17 demonstrates that he did not take any action to interfere with plaintiff’s right to marry.

18 As discussed above, according to defendant’s evidence, non-party Marriage Coordinator
19 Wallace sent plaintiff confirmation of receipt of his marriage application on December 18, 2013,
20 and she notified him that his marriage application had been approved and his wedding date
21 scheduled for January 18, 2014. (Wallace Decl. at ¶ 8 & Ex. C.) Not long thereafter, however,
22 Marriage Coordinator Wallace (and not defendant Rodriguez) decided not to send plaintiff’s

23 ¹ Although plaintiff declares that prison officials issued him a write-up for the same visiting room
24 violation but a correctional hearing officer dismissed the charge in the interest of justice because
25 he determined that the visiting room officer had fabricated it, plaintiff has provided no evidence
26 in support of this contention beyond his own conclusory declaration. Cf. F.T.C. v. Publ’g
Clearing House, Inc., 104 F.3d 1168, 1171 (9th Cir. 1997) (conclusory affidavit, lacking detailed
27 facts and supporting evidence, does not create a genuine issue of material fact)); Soremekun, 509
28 F.3d at 984 (“Conclusory, speculative testimony in affidavits and moving papers is insufficient to
raise genuine issues of fact and defeat summary judgment.”). Nor has plaintiff has provided any
evidence to show that prison officials dismissed his fiancée’s visiting room violation.

1 marriage application to the County Recorder's Office because plaintiff's marriage date was set
2 during the timeframe in which prison officials had suspended plaintiff and his fiancée's visiting
3 privileges. (Id. ¶¶ 3 & 9.) It is undisputed that inmate marriage ceremonies take place in the
4 HDSP visiting room, and if prison officials have suspended the visiting privileges of an inmate's
5 fiancée, they will postpone the wedding until after they have restored the fiancée's visiting
6 privileges. (Id. ¶ 5.) The County Clerk will not perform marriage ceremonies behind glass. (Id.)

7 Given the evidence submitted by defendant Rodriguez in support of his pending motion
8 for summary judgment, the burden shifts to plaintiff to establish the existence of a genuine issue
9 of material fact with respect to his right-to-marry claim. Of course, in considering defendant's
10 motion for summary judgment with respect to plaintiff's claim, the court is required to believe
11 plaintiff's evidence and draw all reasonable inferences from the facts before the court in his favor.
12 Drawing all reasonable inferences from that evidence in plaintiff's favor, the court finds that
13 plaintiff has failed to submit sufficient evidence to create a genuine issue of material fact with
14 respect to his claim that defendant Rodriguez interfered with his right to marry.

15 Specifically, plaintiff has not submitted any evidence to demonstrate that defendant
16 Rodriguez engaged in any conduct that resulted in his inability to get married. As discussed
17 above in connection with plaintiff's motion for summary judgment, at most plaintiff speculates
18 that defendant Rodriguez did not "follow through" with the relief he stated he would give plaintiff
19 after they met regarding plaintiff's inmate appeal. He offers no evidence, however, to show that
20 defendant Rodriguez took any affirmative action or failed to perform an act he was legally
21 required to do that resulted in plaintiff's marriage delay. Johnson, 588 F.2d at 743. Nor has
22 plaintiff offered any evidence to dispute Marriage Coordinator Wallace's declaration that her task
23 at the time was to submit marriage applications to the Lassen County Clerk's Office for
24 processing and that she decided not to send plaintiff's marriage application to the County
25 Recorder's Office because his marriage date was set during the timeframe in which prison
26 officials had suspended his fiancée's visiting privileges. (Wallace Decl. at ¶ 9.) Based on this
27 evidence, the court finds that a reasonable jury could not conclude that defendant Rodriguez
28 interfered with plaintiff's right to marry.

1 Accordingly, for all of the foregoing reasons, the court recommends granting defendant's
2 motion for summary judgment.

3 **III. Qualified Immunity**

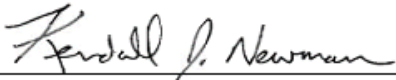
4 Lastly, the court turns to defendant Rodriguez's argument that he is entitled to qualified
5 immunity from liability. For the reasons discussed above, the court finds that the facts in this
6 case, taken in the light most favorable to plaintiff, demonstrate that defendant Rodriguez did not
7 violate plaintiff's right to marry. In addition, insofar as defendant Rodriguez was involved in any
8 delay of plaintiff's marriage date, the court also finds that defendant Rodriguez could have
9 reasonably believed that the suspension of plaintiff and Ms. Walton's visiting privileges provided
10 adequate justification to delay their marriage date because there was no clearly established law to
11 the contrary. See al-Kidd, 131 S. Ct. at 2083.

12 The Ninth Circuit Court of Appeals has not addressed the affirmative defense of qualified
13 immunity in this context, but the Seventh Circuit Court of Appeals determined in a similar case
14 that prison officials were entitled to qualified immunity for delaying a prisoner's marriage date
15 until after prison officials reinstated his fiancée's visiting privileges. See Martin v. Snyder, 329
16 F.3d 919 (7th Cir. 2003). In Martin, a state prisoner and his fiancée filed a civil rights action,
17 claiming that prison officials interfered with their right to marry. Martin, 329 F.3d at 920.
18 During a prison visit, the two had embraced and kissed, and Martin fondled her buttocks. Id.
19 Prison officials issued Martin a prison disciplinary ticket for this conduct and prohibited him from
20 having visitors for thirty days. Id. Prison officials also placed his fiancée's name on a restricted
21 list of indefinite duration. Id. Subsequently, Martin and his fiancée submitted a request to get
22 married. Id. Prison officials denied the request because Martin's fiancée was not allowed to visit
23 him at the time. Id. Ultimately, after eighteen months, prison officials reinstated their visiting
24 privileges. Their marriage had been delayed for twelve months. Id. The Seventh Circuit held
25 that defendants were entitled to qualified immunity from liability and explained:

26 Though the complaint protests a denial of marriage, we know now
27 that the warden did not preclude it. He only postponed it. Turner
28 does not say that every delay violates the Constitution, and several
 decisions have held that prisoners may be required to wait for
 counseling or administrative processing. Restrictions on visitation,

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
2 objections shall be filed and served within seven days after service of the objections. The parties
3 are advised that failure to file objections within the specified time may waive the right to appeal
4 the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 Dated: April 28, 2016

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8 KENDALL J. NEWMAN
9 UNITED STATES MAGISTRATE JUDGE

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