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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID WESLEY BIRRELL, aka
BELLA-CHRISTINA BIRRELL,

Plaintiff,

v.

JOYCE BANZHAF, et al.,

Defendants.

No. 2:14-cv-1024 JAM DB 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 December 26, 2017, plaintiff filed a motion which requested: (1) that the instant action be dismissed, and (2) that the initial filing fee of \$350.00 be waived. (See ECF No. 55).

On January 9, 2018, the magistrate judge filed findings and recommendations herein recommending that the motion be granted in part and denied in part. (ECF No. 57). The findings and recommendations were served on all parties and contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. (ECF No. 57). Neither party has filed objections to the findings and recommendations.

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1 The court has reviewed the file and finds the findings and recommendations to be
2 supported by the record and by the magistrate judge's analysis.

3 Therefore, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed January 9, 2018 (ECF No. 57) are ADOPTED
5 in full;

6 2. Plaintiff's motion filed December 26, 2017 (ECF No. 55) is GRANTED in part and
7 DENIED in part as follows:

8 a. Plaintiff's request to dismiss the complaint is GRANTED. The action is
9 DISMISSED pursuant to Federal Rule of Civil Procedure 41(a)(2), and

10 b. Plaintiff's request to have the \$350.00 filing fee waived in the matter is DENIED.

11 Accordingly, the Clerk of Court shall close this case.

12 DATED: February 21, 2018

13 /s/ John A. Mendez

14 UNITED STATES DISTRICT COURT JUDGE
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