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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN CARLSON,
Plaintiff,
v.
B. DUFFY, et al.,
Defendants.

No. 2:14-cv-2843 KJM-DB-P

AMENDED 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 September 20, 2018, the magistrate judge issued 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. 57. Neither party has filed objections to the findings and recommendations. Further, to ensure that plaintiff had access to materials for preparation to oppose defendants’ summary judgment motion, the magistrate judge ordered defendants to file a response “to inform the court of the status of plaintiff’s legal materials related to this case and how frequently he is allowed to access those materials.” *Id.* Defendants filed a response on October 1, 2018. ECF No. 58.

1 The court presumes that any findings of fact are correct. *See Orand v. United*
2 *States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are
3 reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations
4 of law by the magistrate judge are reviewed de novo by both the district court and [the appellate]
5 court . . .”). Having reviewed the file, the court finds the findings and recommendations to be
6 supported by the record and by the proper analysis.

7 The court has also reviewed defendants’ response to the magistrate judge’s order,
8 and finds that it supports the magistrate judge’s finding that a preliminary injunction is not
9 warranted. *See* ECF No. 58. Plaintiff is permitted to access to storage in his living area, and
10 may access additional storage in a separate location upon exchange. Aguirre Decl. ¶ 10 ECF No.
11 58-1. Plaintiff has submitted numerous filings to the court, which supports a finding that his
12 access to legal materials is not unreasonably burdened. *See, e.g.*, ECF No. 19, 27, 31-32, 35-36,
13 38, 48; *see also Turner v. Sacramento Cty. Sheriff*, No. 2:09-CV-0117 WBS KJN, 2010 WL
14 4237023, at *2 (E.D. Cal. Oct. 21, 2010), *report and recommendation adopted*, No. 2:09-CV-
15 0117 WBS KJN, 2010 WL 5317331 (E.D. Cal. Dec. 20, 2010) (finding that plaintiff’s filings on
16 the docket provided “ample evidence that plaintiff is not being unreasonably denied access to the
17 court”). Even if plaintiff had shown that his access to legal materials is unreasonably restricted,
18 plaintiff has not met his burden to show he has been prejudiced by restricted access to his
19 materials, such as through the inability to meet a filing deadline or to present a claim. *See Lewis*
20 *v. Casey*, 518 U.S. 343, 348 (1996). Therefore, the court adopts the magistrate judge’s findings
21 and recommendations in full.

22 Accordingly, IT IS HEREBY ORDERED that:

- 23 1. The findings and recommendations filed September 20, 2018, are ADOPTED
24 in full;
- 25 2. Plaintiff’s motion for injunctive relief (ECF No. 55) is DENIED; and
- 26 3. This case is referred back to the assigned magistrate judge for all further
27 pretrial proceedings.

28 DATED: January 28, 2019.

2 
UNITED STATES DISTRICT JUDGE