1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 CARLOS KINKEADE, No. 2:15-cv-01375-TLN-CKD P 12 Plaintiff. 13 **ORDER** v. 14 A. ODDIE, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On June 11, 2018, the magistrate judge filed findings and recommendations herein which 21 were served on all parties and which contained notice to all parties that any objections to the 22 findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations. 23 24 The Court presumes that any findings of fact are correct. See Orand v. United States, 602 25 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. 26 See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed 27 the file, the Court finds the findings and recommendations to be supported by the record and by 28 the magistrate judge's analysis. 1

## Accordingly, IT IS HEREBY ORDERED that: 1. The findings and recommendations filed June 11, 2018 are adopted in full. 2. Plaintiff's amended motion for substitution, (ECF No. 124), is GRANTED. 3. The Clerk of Court is directed to substitute Julia Bogle, Administrator of the Estate of Carlos Kinkeade, as Plaintiff in this action. 4. Defendant D. Amparano is DISMISSED without prejudice based on Plaintiff's failure to timely serve the summons. 5. The matter is referred back to the magistrate judge to reset the dispositive motions deadline governing this case. Dated: September 10, 2018 Troy L. Nunley United States District Judge