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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 KENNETH HILL,

12 Plaintiff,

13 v.

14 GARY SWARTHOUT, et al.,

15 Defendants.
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No. 2:15-cv-2012 KJM AC P

FINDINGS AND RECOMMENDATIONS

17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to
18 42 U.S.C. § 1983. The Ninth Circuit has vacated the September 20, 2020 judgment and
19 remanded the case for further proceedings. ECF No. 60. By order filed January 31, 2017, ECF
20 No. 9, the undersigned had screened the original complaint and dismissed plaintiff's due process
21 claims against defendants Swarthout and Cappel for denying his disciplinary appeals. Because
22 defendants had not consented to magistrate judge jurisdiction, the undersigned was without
23 jurisdiction to dismiss the claims. ECF No. 60 (citing Williams v. King, 875 F.3d 500, 503-04
24 (9th Cir. 2017)).

25 Accordingly, IT IS HEREBY ORDERED that the dismissal of the due process claims
26 against defendants Swarthout and Cappel for denying plaintiff's disciplinary appeals (ECF No. 9)
27 is VACATED.

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1 IT IS FURTHER RECOMMENDED that the due process claims against defendants
2 Swarthout and Cappel for denying plaintiff's disciplinary appeals be dismissed without leave to
3 amend for the reasons set forth in the January 31, 2017 screening order (ECF No. 9 at 5-6).

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
6 after being served with these findings and recommendations, any party may file written
7 objections with the court and serve a copy on all parties. Such a document should be captioned
8 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
9 objections shall be served and filed within fourteen days after service of the objections. The
10 parties are advised that failure to file objections within the specified time may waive the right to
11 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 DATED: June 17, 2021.

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15 ALLISON CLAIRE
16 UNITED STATES MAGISTRATE JUDGE
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