

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES ROBERT PECK, Jr.,
Plaintiff,
v.
JULIE NAMAN, et al.,
Defendants.

No. 2:16-cv-0736 KJM KJN 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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 15, 2017, the magistrate judge filed 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. Neither party has filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

1 The court writes separately to make the following changes. On page 2, line 12 of the
2 findings and recommendations, ECF No. 32, the word challenges is changed to challenge. The
3 text beginning on page 6, line 13, is changed to amend the case citations to read as follows: The
4 Court of Appeals for the Ninth Circuit has held that California Penal Code § 2085.5, which
5 requires the Director of the CDCR “to make deductions from prisoner wage and trust account
6 deposits for payment of restitution obligations, is rationally related to legitimate state interests in
7 compensating crime victims. *Craft v. Ahuja*, 475 Fed.Appx. 649, 650 (9th Cir. 2012); *see also*
8 *Abney v. Alameida*, 334 F.Supp.2d 1221, 1232 (S.D.Cal. 2004) (“Plaintiff has not, and cannot,
9 allege that the deduction of money to satisfy the victim restitution order is not a legitimate interest
10 of the State of California.”).” The footnote reference on page 6, line 22, is moved up to follow
11 the citation to *Craft, supra*. On page 6, line 21, the citation to *Craft* is changed to “*See Craft*,
12 475 Fed.Appx. at 650.” With these changes, the findings and recommendations are adopted.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The findings and recommendations filed December 15, 2017, are adopted as modified
15 by this order;
- 16 2. Defendants’ motion to dismiss (ECF No. 20) is granted; and
- 17 3. This action is dismissed for failure to state a claim.

18 DATED: June 11, 2018.

19
20 
21 _____
22 UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28