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8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   ROBERT WILLIAM TUNSTALL, Jr.,   No. 2:16-cv-2665 JAM DB P

12   Plaintiff,

13   v.   FINDINGS AND RECOMMENDATIONS

14   D. BODENHAMER, et al.,

15   Defendants.

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17   Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights

18   action under 42 U.S.C. § 1983. Plaintiff alleges that his cell at California State Prison –

19   Sacramento was not in compliance with the Americans with Disabilities Act or with section 504

20   of the Rehabilitation Act. Before the court is plaintiff's "Emergency Motion to be Placed into the

21   'Protective Custody' of the Court." (ECF No. 16.)

22   Plaintiff seeks placement in protective custody to avoid being "murdered" by prison staff

23   at California State Prison-Corcoran, where he is currently incarcerated. Plaintiff describes some

24   rude and harassing behavior by prison staff. Plaintiff also states that he was physically assaulted

25   twice previously at other prisons. None of plaintiff's allegations show that he is in imminent

26   danger of harm that requires intervention by the court.

27   Accordingly, IT IS HEREBY RECOMMENDED that plaintiff's Emergency Motion (ECF

28   No. 16) be denied.

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1   These findings and recommendations will be submitted to the United States District Judge

2   assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days

3   after being served with these findings and recommendations, plaintiff may file written objections

4   with the court. The document should be captioned "Objections to Magistrate Judge's Findings

5   and Recommendations." Plaintiff is advised that failure to file objections within the specified

6   time may result in waiver of the right to appeal the district court's order. <u>Martinez v. Ylst</u>, 951

7   F.2d 1153 (9th Cir. 1991).

8   Dated: July 11, 2017

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11   DEBORAH BARNES
     UNITED STATES MAGISTRATE JUDGE

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15   DLB:9
     DLB1/prisoner-civil rights/tuns2665.emerg mtn fr

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