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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL LEE THORNBERRY,
Plaintiff,
v.
J. BAL, et al.,
Defendants.

No. 2:17-cv-00953-TLN-DMC

ORDER

Plaintiff Daniel Lee Thornberry (“Plaintiff”), a prisoner proceeding *pro se*, brings this civil rights action under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302(c)(21).

On March 16, 2021, the magistrate judge filed findings and recommendations which were served on the parties and which contained notice that the parties may file objections within the time specified. (ECF No. 119.) The magistrate judge recommended granting Defendants J. Bal (“Bal”), Michael Felder, M. Bobbala, C. Smith, and James Chau’s (collectively, “Defendants”) Motion for Summary Judgment (ECF No. 111) and denying Plaintiff’s Motion for Summary Judgment (ECF No. 104) as moot. (*Id.* at 40.)

On April 6, 2021, Plaintiff filed objections after the specified deadline, arguing that (1) his claims against Bal should be allowed to move forward because the screening order found that he asserted cognizable claims against Bal and (2) the magistrate judge generally erred in requiring

1 Plaintiff to produce evidence when disputing Defendants' facts to create a genuine issue of
2 disputed fact. (See ECF No. 120.) The magistrate judge deemed the objections timely. (ECF
3 No. 121.) On April 21, 2021, Defendants filed a response Plaintiff's objections. (ECF No. 122.)
4 Defendants note that the magistrate judge used the proper standard for summary judgment and
5 found Plaintiff's "own statements insufficient to raise a genuine issue of material fact because
6 'self-serving' statements must be substantiated by probative supporting evidence." (*Id.* at 2-4
7 (citing *F.T.C. v. Publishing Clearing House, Inc.*, 104 F.3d 1168, 1171 (9th Cir. 1997);
8 *California Sportfishing Protection Alliance v. River City Waste Recyclers, LLC*, 205 F. Supp. 3d
9 1128, 1135 (E.D. Cal. 2016).) The Court agrees with Defendants. Defendants also ask this Court
10 to adopt the magistrate judge's findings and recommendations. (*Id.* at 7.) The magistrate judge
11 did not vacate the findings and recommendations based upon Plaintiff's objections.

12 The Court presumes that any findings of fact are correct. See *Orand v. United States*, 602
13 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*.
14 See *Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

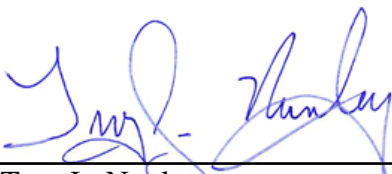
15 The Court has reviewed the file and finds the findings and recommendations to be
16 supported by the record and by the magistrate judge's analysis.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. The Findings and Recommendations filed on March 16, 2021 (ECF No.
19 119), are ADOPTED IN FULL;
- 20 2. Defendants' Motion for Summary Judgment (ECF No. 111) is GRANTED;
- 21 3. Plaintiff's Motion for Summary Judgment (ECF No. 104) is DENIED as
22 moot; and
- 23 4. The Clerk of the Court is directed to enter judgment and close this file.

24 IT IS SO ORDERED.

25 DATED: May 20, 2021

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Troy L. Nunley
United States District Judge