10 DEREK TATE,

Plaintiff,

Defendant.

v.

13 J. ANDRES,

## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

No. 2:18-cv-0822 KJM AC P

**ORDER** 

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, 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 October 25, 2019, 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. ECF No. 33. 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 Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . . . "). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

## Accordingly, IT IS HEREBY ORDERED that: 1. The findings and recommendations filed October 25, 2019 (ECF No. 33), are adopted in full. 2. Plaintiff's motion to strike defendant's affirmative defenses (ECF No. 29) is denied. 3. Plaintiff's motion for temporary restraining order (ECF No. 30) is denied. 4. This case is referred back to the assigned magistrate judge for all further pretrial proceedings. DATED: December 11, 2019.