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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JACOB DAVID WOOLERY,
Plaintiff,
v.
ERIC MAGRINI, et al.,
Defendants.

No. 2:21-cv-01687-KJM-CKD

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 January 6, 2022, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not 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.

1 The magistrate judge found that this case presents an Eighth Amendment challenge to the
2 alleged ongoing violations of plaintiff's right to health and safety during his confinement in
3 administrative segregation at the Shasta County Jail. ECF No. 6 at 1-2. The magistrate judge
4 further found that plaintiff raised the same claims against the same four defendants, albeit for an
5 earlier time frame, in an earlier filed action, *Woolery v. Magrini, et. al.*, Case No. 2:21-cv-1232
6 WBS EFB, that this action was therefore duplicative of that one, and that plaintiff still had an
7 opportunity to amend his complaint in Case No. 2:21-cv-1232 WBS EFB to add the allegations
8 raised in the complaint filed in this action. Review of the record in Case No. 2:21-cv-1232 WBS
9 EFB shows that plaintiff did not file an amended complaint in that action and that it was
10 dismissed on February 15, 2022. *Woolery v. Magrini*, Case No. 2:21-cv-1232 WBS EFB, ECF
11 No. 13. The order of dismissal and judgment in that action were returned undelivered, and
12 plaintiff has not filed a notice of change of address in that action or this one. Nothing in this
13 subsequent history changes the correctness of the magistrate judge's findings and
14 recommendations or this court's decision to adopt them in full.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. The findings and recommendations filed January 6, 2022, are adopted in full; and
- 17 2. Plaintiff's complaint is dismissed as duplicative of *Woolery v. Magrini, et al.*, Case No.
18 2:21-cv-01232-WBS-EFB (E.D. Cal.).

19 DATED: June 21, 2022.

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23 CHIEF UNITED STATES DISTRICT JUDGE
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