



## Williams v. Grannis

2007 | Cited 0 times | E.D. California | June 13, 2007

### ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

(Doc. 20)

### ORDER DENYING MOTIONS FOR PRELIMINARY INJUNCTIVE RELIEF

(Docs. 18 & 19)

Plaintiff David Lyn Williams ("plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 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 72-302.

On April 13, 2007, the Magistrate Judge filed a Findings and Recommendations herein which was served on plaintiff and which contained notice to plaintiff that any objection to the Findings and Recommendations was to be filed within thirty days. On May 18, 2007, plaintiff filed an Objection to the Magistrate Judge's Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 73-305, this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed April 13, 2007, is ADOPTED IN FULL;<sup>1</sup> and,
2. Plaintiff's motions for preliminary injunctive relief, filed March 16, 2007, and March 30, 2007, are DENIED.

IT IS SO ORDERED.

1. On May 18, 2007, plaintiff filed a notice of appeal of the Findings and Recommendations. Although the filing of a notice of appeal generally divests a district court of jurisdiction to determine the "substantial rights" at issue in an action during the pendency of the appeal, *Pyrodyne Corp. v. Pyrotronics Corp.*, 847 F. 2d 1398, 1403 (9th Cir. 1988), an exception to this rule exists where a deficiency in the notice of appeal "is clear to the district court." *Ruby v. Secretary of the United States Navy*, 365 F. 2d 385, 389 (9th Cir. 1966). In such a case the district court may proceed with the case "knowing that it



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has not been deprived of jurisdiction." Id. Because it is completely "clear to the district court" that no appeal lies from a Magistrate Judge's Findings and Recommendations, this Court knows "that it has not been deprived of jurisdiction" over this action.

