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

ALFREDO ESCOBAR,

Plaintiff,

No. 2:12-cv-0773 GEB DAD P

vs.

CHRISTOPHER SMITH, et al.,

Defendants.

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 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 7, 2012, the magistrate judge filed findings and recommendations herein 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. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, 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.

1 Accordingly, IT IS HEREBY ORDERED that:


2 1. The findings and recommendations filed November 7, 2012, are adopted in
3 full;

4 2. Plaintiff's motion for a preliminary injunction (Dkt. No. 11) is denied;

5 3. Defendants' motion to dismiss plaintiff's claim that the defendants were
6 deliberately indifferent to his serious medical need in refusing to treat his condition surgically
7 (Dkt. No. 17) is granted on the ground that plaintiff failed to exhaust his administrative remedies
8 with respect to that claim; and

9 4. This matter is referred back to the magistrate judge for further proceedings.

10 Dated: December 13, 2012

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13 GARLAND E. BURRELL, JR.
14 Senior United States District Judge
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