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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEITH BLACKWELL,

Plaintiff,

v.

CALIFORNIA DEPARTMENT
OF CORRECTIONS, et al.,

Defendants.

CASE NO. 1:05-cv-00856-AWI-SMS PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, AND DENYING
DEFENDANTS’ MOTION TO DISMISS FOR
FAILURE TO EXHAUST, WITHOUT
PREJUDICE TO RENEWAL WITHIN SIXTY
DAYS

(Docs. 161 and 166)

This civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Keith Blackwell, a former state prisoner proceeding pro se and in forma pauperis. 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 July 14, 2009, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice to the parties that any objections were to be filed within fifteen days. No objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), 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 July 14, 2009, is adopted in full;
 2. Defendants’ motion to dismiss, filed May 29, 2009, is DENIED, without prejudice;
- and

1 3. Defendants have **sixty (60) days** from the date of service of this order within which
2 to file an unenumerated Rule 12(b) motion.

3
4 IT IS SO ORDERED.

5 **Dated: September 11, 2009**

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE