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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTHONY D. WAFER,)	1:07-cv-00865-AWI-BAM (PC)
)	
Plaintiff,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS REGARDING
v.)	DEFENDANTS' MOTION TO DISMISS
)	FOR FAILURE TO EXHAUST
W. SUESBERRY, et al.,)	ADMINISTRATIVE REMEDIES
)	
Defendants.)	(ECF No. 60)
)	
)	

Plaintiff Anthony D. Wafer (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On January 15, 2014, the Magistrate Judge issued Findings and Recommendations that Defendants’ motion to dismiss for failure to exhaust administrative remedies be granted in part and denied in part. Specifically, the Magistrate Judge recommended that Plaintiff’s claim against Defendant Hasadsri be dismissed without prejudice for failure to exhaust administrative remedies and that this action proceed on Plaintiff’s claims against Defendants Reynolds and Suesberry for failure to provide medication in violation of the Eighth Amendment.¹

The Findings and Recommendations were served on the parties appearing in this action and contained notice that any objections were to be filed within thirty (30) days after service. More than thirty days have passed and no objections have been filed. On February 24, 2014,

¹ The Clerk of the Court entered default against Defendant Suesberry on November 21, 2013. Plaintiff filed a motion for default judgment against Defendant Suesberry on January 9, 2014. (ECF No. 59.) The motion for default judgment remains pending.

1 Plaintiff filed a statement indicating that he concurred with the Findings and Recommendations
2 and would not be filing any objections. (ECF No. 61.)

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

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. The Findings and Recommendations, issued on January 15, 2014, are adopted in
8 full; and

9 2. Defendants' motion to dismiss for failure to exhaust administrative remedies is
10 GRANTED IN PART and DENIED IN PART;

11 3. Plaintiff's claim against Defendant Hasadsri is DISMISSED without prejudice
12 for failure to exhaust administrative remedies;

13 4. This action shall proceed on Plaintiff's claims against Defendants Reynolds and
14 Suesberry for failure to provide medication in violation of the Eighth Amendment; and

15 5. This action is referred back to the Magistrate Judge for further proceedings
16 consistent with this order.

17
18 IT IS SO ORDERED.

19 Dated: March 13, 2014


20 SENIOR DISTRICT JUDGE