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

ESS'N A. AUBERT,

1:07-cv-01629-LJO-GSA-PC

Plaintiff,

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 35.)

vs.

KEVIN ELIJAH, et al.,

ORDER DENYING DEFENDANT
ELIJAH'S MOTION FOR JUDGMENT
ON THE PLEADINGS, OR IN THE
ALTERNATIVE, MOTION TO DISMISS
FOR FAILURE TO EXHAUST
(Doc. 23.)

Defendants.

_____ /

Ess'n A. Aubert ("Plaintiff") is a former state prisoner proceeding pro se 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 302.

On August 24, 2010, [findings and recommendations](#) were entered, recommending that Defendant Elijah's motion for judgment on the pleadings, or in the alternative, motion to dismiss for failure to exhaust, filed on December 18, 2009, be denied. (Doc. 35.) On September 23, 2010, Defendant Elijah filed [objections](#) to the findings and recommendations. (Doc. 39.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, including Defendant Elijah's objections, the Court finds the findings and recommendations to be supported by the record and proper analysis.

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Accordingly, THE COURT HEREBY ORDERS that:

1. The Findings and Recommendations issued by the Magistrate Judge on August 24, 2010, are ADOPTED in full; and
2. Defendant Elijah's motion for judgment on the pleadings, or in the alternative, motion to dismiss for failure to exhaust, filed on December 18, 2009, is DENIED.

IT IS SO ORDERED.

Dated: September 28, 2010

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE