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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JAMES EDWARD ROBERTS,

Plaintiff,

v.

CORRECTIONAL OFFICER
SALANO, et al.,

Defendants.

CASE NO. 1:08-cv-00162-LJO-GSA PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
DEFENDANT’S MOTION TO DISMISS, AND
REQUIRING DEFENDANT TO RESPOND TO
COMPLAINT WITHIN THIRTY DAYS

(Doc. 24)

Plaintiff James Edward Roberts 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 May 27, 2009, the Magistrate Judge issued a [Findings and Recommendations](#) recommending Defendant Salano’s motion to dismiss for failure to exhaust be denied. Defendant filed an [Objection](#) on June 26, 2009.¹

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 May 27, 2009, is adopted in full;

¹ Plaintiff filed an [Objection](#) on June 15, 2009, but Plaintiff’s objection is to Defendant’s arguments and not the Magistrate Judge’s Findings and Recommendations.

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- 2. Defendant Salano’s motion to dismiss for failure to exhaust, filed January 23, 2009, is DENIED, without prejudice; and
- 3. Defendant shall file a response to Plaintiff’s complaint within **thirty (30) days** from the date of service of this order.

IT IS SO ORDERED.

Dated: July 16, 2009

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