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

ANDREW R. LOPEZ,	Case No. 1:08-cv-01975-LJO-JLT (PC)
Plaintiff,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO DENY DEFENDANTS' MOTION TO DISMISS
v.	(Doc. 69).
FLOREZ, et al.,	
Defendants.	

Plaintiff is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. (Doc. 1). The matter was referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rules 302 and 303.

On August 31, 2012, Magistrate Judge Thurston issued Findings and Recommendations to deny Defendants' motion to dismiss. (Doc. 69). Defendants' motion argued the following: 1) based upon the timing of the two grievances, Plaintiff failed to exhaust his administrative remedies as to Defendant Florez and 2) Defendant Reed's actions did not constitute deliberate indifference and therefore the federal and state claims should fail. (Doc. 53). With regard to Defendant Florez' motion, the Findings and Recommendations cited several authorities which demonstrated that a single grievance was sufficient to alert prison officials of Plaintiff's medical

1 complaints. (Doc. 69 at 7). Based upon these authorities and the evidence presented, Magistrate
2 Judge Thurston properly recommended that Defendant Florez' motion to dismiss for failure to
3 exhaust administrative remedies be denied. As for Defendant Reed, Magistrate Judge Thurston
4 found that Reed's knowledge of Plaintiff's surgery, the order for pain medication, and the fact
5 that Plaintiff was in pain, along with the allegations of set forth in the Complaint, were sufficient
6 to demonstrate deliberate indifference. (Doc. 69 at 7-8). As a result, Magistrate Judge Thurston
7 recommended Defendant Reed's motion be denied as well.

9 The parties were advised in the August 31, 2012 Findings and Recommendations that they
10 had 14 days to object. (Doc. 69). Despite the Court's warning, neither party submitted
11 objections to the findings and recommendations.

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Britt v. Simi Valley
13 United School Dist., 708 F.2d 452, 454 (9th Cir. 1983), the Court has conducted a de novo review
14 of the case. Having carefully, reviewed the entire file, the Court finds that the Findings and
15 Recommendations are supported by the record and by proper analysis.

16 Accordingly, IT IS HEREBY ORDERED that:

- 17 1. The Findings and Recommendations filed August 31, 2012 are **ADOPTED IN**
18 **FULL**; and
- 19 2. The Motion to Dismiss filed by Defendants Florez and Reed is **DENIED**.

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25 IT IS SO ORDERED.

26 Dated: September 18, 2012

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