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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT JAMES DIXON,

Plaintiff,

v.

JAMES A. YATES, et al.,

Defendants.

CASE NO. 1:09-CV-00657-AWI-DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANT IGBINOSA’S MOTION TO
DISMISS

(DOC. 37)

_____ /

Plaintiff Robert James Dixon (“Plaintiff”) is a California state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Igbinoza and Diep for violation of the Eighth Amendment. On September 20, 2010, Defendant Igbinoza filed a [motion to dismiss](#) for Plaintiff’s failure to exhaust administrative remedies. Doc. 24. 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 July 8, 2011, the Magistrate Judge filed a [Findings and Recommendations](#) which was served on the parties and which contained notice to the parties that any objection to the Findings and Recommendations was to be filed within twenty-one days. Doc. 37. Plaintiff filed an [Objection](#) to the Findings and Recommendations on July 29, 2011. Doc. 38. Defendant filed a [response](#) to the Objection on September 6, 2011. Doc. 40.

In accordance with the provisions of 28 U.S.C. § 636(b)(1), 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.

1 Plaintiff's objections are unavailing. Plaintiff contends that an inmate grievance concerning
2 Defendant Igbinosa's actions was granted at the first level of review. However, Plaintiff failed to
3 produce this grievance. Plaintiff's grievance No. PVSP-D-08-1325, which Defendant produced,
4 does not concern Plaintiff's claims against Defendant Igbinosa in this action.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The Findings and Recommendations, filed July 8, 2011, is adopted in full;
- 7 2. Defendant Igbinosa's motion to dismiss for Plaintiff's failure to exhaust
8 administrative remedies pursuant to 42 U.S.C. § 1997e(a), filed September 20, 2010,
9 is GRANTED;
- 10 3. Plaintiff's claim against Defendant Igbinosa are dismissed without prejudice; and
- 11 4. Defendant Igbinosa is dismissed from this action.

12 IT IS SO ORDERED.

13 Dated: September 29, 2011

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15 CHIEF UNITED STATES DISTRICT JUDGE