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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY CRAIG HUCKABEE,

Plaintiff,

v.

MEDICAL STAFF AT CSATF, et al.,

Defendants.

No. 1:09-cv-00749-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING IN
PART DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

(Doc. Nos. 246, 272)

Plaintiff Anthony Craig Huckabee is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 15, 2017, defendants moved for summary judgment under Federal Rule of Civil Procedure 56, arguing that plaintiff had failed to exhaust his available administrative remedies before filing suit as required. (Doc. No. 246.) On August 31, 2018, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion be granted in part after finding that plaintiff had failed to exhaust his administrative remedies with respect to certain claims. (Doc No. 272.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen days after service. (*Id.* at 24.) On September 13, 2018, plaintiff timely filed his objections. (Doc. No. 273.)

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of this case. Having carefully reviewed the entire file, the court concludes the
3 findings and recommendations are supported by the record and by proper analysis.

4 In his objections, plaintiff merely reiterates arguments raised in his opposition and his
5 prior motion seeking leave to file a sixth amended complaint. Plaintiff does not argue that he
6 exhausted his administrative remedies prior to the filing of this action as required, nor does he
7 effectively respond to defendants' motion for summary judgment with respect to the claims the
8 magistrate judge properly determined to be unexhausted. In short, plaintiff's objections provide
9 no basis upon which to reject the findings and recommendations.

10 Accordingly,

- 11 1. The findings and recommendations issued on August 31, 2018 (Doc. No. 272) are
12 adopted in full;
- 13 2. Defendants' motion for summary judgment (Doc. No. 246) is granted in part and
14 denied in part without prejudice;
- 15 3. This action now proceeds only on plaintiff's claims brought against defendants Wu,
16 Jimenez, and McGuiness;
- 17 4. If defendants intend to file a second motion for summary judgment on the issue of
18 exhaustion of administrative remedies, they are directed to request an evidentiary
19 hearing on that issue within twenty-one days after service of this order; and
- 20 5. This case is referred back to the assigned magistrate judge for further proceedings.

21 IT IS SO ORDERED.

22 Dated: September 30, 2018

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25 UNITED STATES DISTRICT JUDGE
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