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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

<p>GARY WILLIAMS,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 80px;">v.</p> <p>S. STEGLINSKI, et. al.,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Case No.: 1:12-cv-00786-AWI-SAB (PC)</p> <p>ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, GRANTING DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT, DISMISSING DEFENDANTS EPPERSON, HORTON, AND KAUR FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES, AND REFERRING MATTER BACK TO MAGISTRATE JUDGE FOR FURTHER PROCEEDINGS</p> <p>(ECF Nos. 38, 48)</p>
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Plaintiff Gary Williams is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 30, 2014, Defendants Kaur, Horton, and Epperson filed a motion for summary judgment.¹

On August 1, 2014, the Magistrate Judge filed a Findings and Recommendations which was served on the parties and which contained notice to the parties that Objections to the Findings and Recommendations were to be filed within thirty days.

On September 4, 2014, Plaintiff filed a notice of appeal, which the Court has construed as objections to the Findings and Recommendations because it is not a final order subject to appealability

¹ Defendants Steglinski and Dyer did not move for summary judgment on the claim of excessive force against them.

1 review, nor does such filing divest this Court of jurisdiction. See Estate v. Conners by Meredith v.
2 O'Connor, 6 F.3d 656, 658 (9th Cir. 1993) (notice of appeal from a nonappealable order does not
3 divest the district court of jurisdiction). “When a Notice of Appeal is defective in that it refers to a
4 transfer jurisdiction to the appellate court, and so the ordinary rule that the district court cannot act
5 until the mandate has issued on the appeal does not apply.” Nascimento v. Dummer, 508 F.3d 905,
6 908 (9th Cir. 2007).

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de*
8 *novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and
9 Recommendations to be supported by the record and by proper analysis.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Findings and Recommendations, filed on August 1, 2014, is adopted in full;
- 12 2. Defendants’ Kaur, Horton, and Epperson’s motion for summary judgment for failure to
13 exhaust the administrative remedies is GRANTED;
- 14 3. Defendants Kaur, Horton, and Epperson are DISMISSED from the action; and
- 15 4. The matter is referred back to the Magistrate Judge for further proceedings.

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17 IT IS SO ORDERED.

18 Dated: September 30, 2014

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20 SENIOR DISTRICT JUDGE