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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARL WARNER,
Plaintiff,
v.
MATTHEW L. CATE, et al.,
Defendants.

CASE NO. 1:12-cv-01146-LJO-MJS (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATION**
(ECF No. 95)
CASE TO REMAIN OPEN

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 28 U.S.C. § 1983. (ECF Nos. 1 & 12.) 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 December 29, 2015, the Magistrate Judge issued findings and recommendation after having conducted an evidentiary hearing. (ECF No. 95.) Following receipt of testimony and evidence, the Magistrate Judge concluded that Defendants had not met their burden that Plaintiff failed to exhaust his administrative remedies. No opposition has been filed by the Defendants.

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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the 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 December 29, 2015, findings and recommendations (ECF No. 95) are adopted in full;
2. The Court adopts the Magistrate Judge’s conclusion that Defendants have not met their burden that Plaintiff failed to exhaust his administrative remedies;
and
3. This case is to remain open.

IT IS SO ORDERED.

Dated: February 19, 2016

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