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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EUGENIO LUIS NOGUERAS,
Plaintiff,
v.
S. LOPEZ, et al.,
Defendants.

Case No. 1:12-cv-01365-LJO-SKO (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
MOTION FOR SUMMARY JUDGMENT
FOR FAILURE TO EXHAUST, WITH
PREJUDICE**
(Docs. 25 and 44)

Plaintiff Eugenio Luis Nogueras, a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 21, 2012. 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 June 29, 2015, the Magistrate Judge recommended Defendant’s motion for summary judgment for failure to exhaust be denied, with prejudice, on the ground that the exhaustion requirement does not apply to former prisoners who brought suit after their release. 42 U.S.C. § 1997e(a); *Talamantes v. Leyva*, 575 F.3d 1021, 1024 (9th Cir. 2009). The fifteen-day objection period has expired and neither party filed objections.

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

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed on June 29, 2015, is adopted in full;
2. Defendant's motion for summary judgment for failure to exhaust, filed on November 7, 2014, is DENIED, with prejudice; and
3. This matter is referred back to the Magistrate Judge to issue an amended scheduling order.

IT IS SO ORDERED.

Dated: July 23, 2015

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