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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ABEL VALENCIA,

Plaintiff,

vs.

CONNIE GIPSON, et al.,

Defendants.

1:12-cv-1446 AWI SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Doc. #'s 46 & 65

On April 18, 2014, the court issued an order adopting findings and recommendations allowing plaintiff Abel Valencia (“Plaintiff”) to proceed only as to claims against defendant D.J. Ruiz (“Ruiz”) for retaliation and against defendants D.J. Ruiz, A. Mayo, J.C. Garcia, J.C. Smith, S. Johnson and an unknown Institutional Gang Investigator (“IGI”) (collectively “Defendants”) for violation of Plaintiff’s rights under the Due Process Clause of the Fourteenth Amendment. Doc. # 22. On December 16, 2014, Defendants filed a motion for summary judgment as to all remaining claims against all remaining Defendants on the ground Plaintiff’s complaint fails to adequately allege exhaustion of administrative remedies pursuant to the Prison Litigation Reform Act of 1996 (“PLRA”), 42 U.S.C. § 1997e(a). Doc. # 46. Currently before the court are findings of fact and recommendations of law (“F&R’s”) recommending that Defendants’ motion

1 for summary judgment be granted as to the retaliation claim against Ruiz, and as to the Due
2 Process claims against Mayo, Garcia, Smith and Johnson. Doc. # 65. The Magistrate Judge's
3 F&R's do not recommend granting summary judgment as to Plaintiff's Due Process claim
4 against Ruiz. The Findings and Recommendation were served on Plaintiff with notice that any
5 objections were to be filed within thirty (30) days of the date of service of the order. In
6 response, Petitioner filed objections to the F&R's on July 6, 2015.

8 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de*
9 *novo* review of the case. Having carefully reviewed the entire file, including Petitioner's filings,
10 the Court concludes that the Magistrate Judge's Findings and Recommendation is supported by
11 the record and proper analysis.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Findings and Recommendations filed May 8, 2015, are hereby ADOPTED in full.
- 15 2. The Clerk of the Court shall ENTER JUDGMENT in favor of Defendants as to
16 Plaintiff's claim against Ruiz for retaliation and in favor of Defendants as to Plaintiffs
17 claims against Mayo, Garcia, Smith and Johnson for Due Process violation.
- 18 3. Plaintiff's motion for leave to file an amended complaint, Docket Number 71 is hereby
19 REFERRED to the Magistrate Judge for issuance of findings of fact and conclusions of
20 law.
- 21 4. Plaintiff's claim against Ruiz for Due Process violation is REFERRED to the Magistrate
22 Judge for further proceedings as appropriate.

24 IT IS SO ORDERED.

25 Dated: September 10, 2015



SENIOR DISTRICT JUDGE