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

QUINCY SIMS,

Plaintiff,

v.

M. CABRERA,

Defendant.

Case No. 1:12-cv-01904-LJO-SKO (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS, DENYING  
DEFENDANT’S MOTION FOR JUDGMENT  
ON THE PLEADINGS, DENYING  
PLAINTIFF’S MOTION FOR SUMMARY  
JUDGMENT, AND DENYING PARTIES’  
MOTIONS TO STRIKE

(Docs. 18, 27, 29, 30, and 41)

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Plaintiff Quincy Sims (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on November 21, 2012. This action for damages is proceeding against Defendant M. Cabrera (“Defendant”) for failing to protect Plaintiff from the threat of harm by gang members or affiliates while he was at Kern Valley State Prison, in violation of the Eighth Amendment of the United States Constitution.

This action was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On December 8, 2014, the Magistrate Judge filed a Findings and Recommendations which contained notice to the parties that Objections to the Findings and Recommendations were to be filed within twenty days. No Objections were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), 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.

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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed on December 8, 2014, is adopted in full;
2. Defendant’s motion for judgment on the pleadings for failure to exhaust is DENIED, without prejudice to renewal under Rule 56 (doc. 18);
3. Plaintiff’s motion for summary judgment is DENIED, without prejudice, as procedurally deficient (doc. 27);
4. Defendant’s motion to strike Plaintiff’s “surreply” is DENIED (doc. 29); and
5. Plaintiff’s motion to strike Defendant’s motion to strike is DENIED as moot (doc. 30).

IT IS SO ORDERED.

Dated: January 23, 2015

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