UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GUILLERMO CRUZ TRUJILLO, Plaintiff, v. GOMEZ, et al., Defendants.	Case No. 1:14-cv-01370-LJO-EPG (PC) ORDER ADOPTING FINDINGS AND RECOMMENDATIONS (ECF. NOS. 81, 82, & 94)

Guillermo Trujillo ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's Third Amended Complaint on Plaintiff's claims against Gomez, Juarez, and Fernandez for excessive force in violation of the Eighth Amendment. (ECF Nos. 17, 19, & 98). 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 August 11, 2017, Defendants filed a motion for summary judgment on the grounds that Plaintiff failed to exhaust his administrative remedies. (ECF Nos. 81 & 82). On February 14, 2018, Magistrate Judge Erica P. Grosjean entered findings and recommendations, recommending that Defendants' motion for summary judgment be denied. (ECF No. 94).

The parties were provided an opportunity to file objections to the findings and recommendations. The deadline to file objections has passed, and no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this 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 proper analysis.

Accordingly, THE COURT HEREBY ORDERS that:

1. The findings and recommendations issued by the magistrate judge on February 14, 2018, are ADOPTED in full;
2. Defendants' motion for summary judgment is DENIED;
3. To the extent that Plaintiff moved for summary judgment (ECF No. 87, pgs. 1-3), Plaintiff's motion for summary judgment is DENIED without prejudice;
4. Defendants have twenty-one days from the date of service of this order to request an evidentiary hearing on the issue of whether Plaintiff properly submitted grievances that prison officials improperly failed to process; and
5. This case is referred back to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: **March 19, 2018**

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