

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONICO J. QUIROGA III,
Plaintiff,
v.
SERGEANT GRAVES, et al.,
Defendants.

No. 1:16-cv-00234-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF’S MOTION TO AMEND AND
GRANTING DEFENDANT’S MOTION FOR
SUMMARY JUDGMENT

(Doc. No. 76)

Plaintiff, Monico J. Quiroga III, is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. 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 20, 2019, the assigned magistrate judge issued findings and recommendations, recommending that plaintiff’s motion to amend be denied and defendant Fuentez’s motion for summary judgment due to plaintiff’s failure to exhaust his administrative remedies prior to filing suit as required be granted. (Doc. No. 76.) The findings and recommendations were served on plaintiff and contained notice that objections thereto were due within fourteen (14) days. (*Id.*) No objections have been filed and the time in which to do so has now passed.

////

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, the
2 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
3 court finds the findings and recommendations to be supported by the record and proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations filed on August 20, 2019, (Doc. No. 76), are
6 adopted in full;
- 7 2. Defendant Fuentez's motion for summary judgment, filed on June 18, 2019, (Doc.
8 No. 62), is granted;
- 9 3. Plaintiff's motion for leave to amend, filed on July 29, 2019, (Doc. No. 72), is
10 denied because granting leave to amend would be futile;
- 11 4. This case is dismissed, without prejudice, due to plaintiff's failure to exhaust
12 administrative remedies before filing suit;
- 13 5. All other pending motions are denied as moot; and
- 14 6. The Clerk of Court is directed to close this case.

15 IT IS SO ORDERED.

16 Dated: November 19, 2019

17 
18 _____
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28