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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY WILLIAM CORTINAS,
Plaintiff,
v.
CONALL MCCABE, et al.,
Defendants.

1:16-cv-0558 LJO MJS (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO GRANT
DEFENDANTS' MOTION FOR PARTIAL
SUMMARY JUDGMENT FOR FAILURE TO
EXHAUST ADMINISTRATIVE REMEDIES
(ECF NOS. 41, 52.)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's First Amended Complaint against Defendants E. Clark, O. Beregovskaya, P. Lenoir, and C. McCabe on an Eighth Amendment medical indifference claim; against R. Vogel on an Eighth Amendment excessive force claim; and against E. Clark, O. Beregovskaya, P. Lenoir, C. McCabe, and R. Vogel on a Fourteenth Amendment equal protection claim.

On November 13, 2017, the magistrate judge filed findings and recommendations herein recommending that Defendants' motion for partial summary judgment for failure to exhaust administrative remedies be granted. (ECF No. 52.) Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a de novo review of this case. Having carefully reviewed the

1 entire file, the Court finds the findings and recommendations to be supported by the
2 record and by proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed November 13, 2017 (ECF No. 52),
5 are adopted in full;

6 2. Plaintiff's Fourteenth Amendment equal protection claim against Sgt. Vogel is
7 dismissed for failure to exhaust administrative remedies;

8 3. Plaintiff's Fourteenth Amendment equal protection and Eighth Amendment
9 medical indifference claims against the Pain Committee (Defendants Clark,
10 Beregovskaya, McCabe, and Lenoir) are dismissed for failure to exhaust administrative
11 remedies; and

12 4. This action proceeds solely against Sgt. Vogel on an Eighth Amendment
13 excessive force claim.

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15 IT IS SO ORDERED.

16 Dated: December 28, 2017

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

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