1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DEMORIA JACKSON, No. 1:17-cv-00027-DAD-JDP 12 Plaintiff. 13 v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND GRANTING IN 14 PART DEFENDANTS' MOTION FOR M. LUNES, et al., SUMMARY JUDGMENT 15 Defendants. (Doc. Nos. 23, 34) 16 17 18 Plaintiff Demoria Jackson is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United 19 20 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 21 On January 12, 2018, defendants moved for summary judgment under Federal Rule of 22 Civil Procedure 56, arguing that plaintiff had failed to exhaust his available administrative 23 remedies before filing suit as required. (Doc. No. 23.) On August 16, 2018, the assigned 24 magistrate judge issued findings and recommendations, recommending that defendants' motion be granted in part after finding that plaintiff had failed to exhaust certain claims. (Doc. No. 34.) 25 26 The findings and recommendations were served on the parties and contained notice that any 27 objections thereto were to be filed within fourteen days after service. (*Id.* at 13.) On September

4, 2018, plaintiff requested a thirty-day extension of time in which to file objections. (Doc. No.

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1 35.) On September 5, 2018, the assigned magistrate granted plaintiff's request in part, and 2 permitted plaintiff until September 18, 2018 to file objections. (Doc. No. 36.) To date, no 3 objections to the findings and recommendations have been filed, and the time in which to do so 4 has now passed. In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this 5 6 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the 7 court finds the findings and recommendations to be supported by the record and by proper 8 analysis. 9 Accordingly, 10 1. The findings and recommendations issued August 16, 2018 (Doc. No. 34) are adopted 11 in full; 12 2. Defendants' motion for summary judgment (Doc. No. 23) is granted in part and denied 13 in part without prejudice; 14 3. This action now proceeds on plaintiff's due process claim against defendant Lunes; 15 4. If defendants intend to file a second motion for summary judgment on the issue of 16 exhaustion, they are directed to request an evidentiary hearing on that issue within 17 twenty-one days after service of this order; and 18 5. This case is referred back to the assigned magistrate judge for further proceedings. 19 IT IS SO ORDERED. 20 Dated: September 24, 2018 21 22 23 24 25 26 27

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