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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY WILLIAM CORTINAS,

Plaintiff,

vs.

M. HUERTA, et al.,

Defendants.

1:17-cv-00130-AWI-GSA-PC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 33.)**

**ORDER GRANTING DEFENDANT
SCALIA’S MOTION FOR PARTIAL
SUMMARY JUDGMENT FOR FAILURE
TO EXHAUST
(ECF No. 24.)**

**ORDER DISMISSING RETALIATION
CLAIM, WITHOUT PREJUDICE**

Larry William Cortinas (“Plaintiff”) 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 June 11, 2018, [findings and recommendations](#) were filed, recommending that defendant Scalia’s motion for partial summary judgment for failure to exhaust be granted. (ECF No. 33.) On June 28, 2018, Plaintiff filed objections to the findings and recommendations. (ECF No. 34.) On July 9, 2018, defendant Scalia filed a reply to the objections. (ECF No. 35.)

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,

1 including Plaintiff's objections and defendant Scalia's reply, the Court finds the findings and
2 recommendations to be supported by the record and proper analysis.

3 Accordingly, THE COURT HEREBY ORDERS that:

- 4 1. The findings and recommendations filed by the Magistrate Judge on June 11,
5 2018, are ADOPTED IN FULL; and
- 6 2. Defendant Scalia's motion for partial summary judgment for failure to exhaust,
7 filed on December 27, 2017, is GRANTED;
- 8 3. Plaintiff's retaliation claim is DISMISSED without prejudice, for failure to
9 exhaust administrative remedies before filing suit; and
- 10 4. The case is referred back to the Magistrate Judge for further proceedings,
11 including the issuance of a new scheduling order reopening discovery.

12 IT IS SO ORDERED.

13 Dated: August 20, 2018

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15 SENIOR DISTRICT JUDGE