

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JAMES W. MILLNER,	Case No. 1:17-cv-00507-LJO-SAB (PC)
Plaintiff, v. DR. DILEO, et al.,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS REGARDING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON NON-EXHAUSTION GROUNDS
Defendants.	(ECF Nos. 44 & 53)

Plaintiff James W. Millner 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 Eighth Amendment claim for deliberate indifference to a serious medical need against Defendants Dr. DiLeo, Dr. Ulit, and Chief Physician Spaeth. (ECF Nos. 1, 8 & 11.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 24, 2019, the assigned Magistrate Judge issued findings and recommendations that Defendant DiLeo's motion for summary judgment due to Plaintiff's non-exhaustion of available administrative remedies be denied. (ECF No. 53.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within thirty (30) days after service. (Id. at 13-14.) No objections have been filed and the allotted time in which to do so has expired.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds that the findings and recommendations are supported by the record and by proper analysis.

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1	Accordingly, IT IS HEREBY ORDERED that:
2	1. The findings and recommendations issued on January 24, 2019, (ECF No. 53), are
3	adopted in full;
4	2. Defendant DiLeo's motion for summary judgment on non-exhaustion grounds, (ECF No.
5	44), is DENIED; and
6	3. This matter is referred to the assigned Magistrate Judge for further proceedings.
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8	IT IS SO ORDERED.
9	Dated: March 6, 2019 /s/ Lawrence J. O'Neill UNITED STATES CHIEF DISTRICT JUDGE
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