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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ENRIQUE HUAPAYA,  
Plaintiff,  
v.  
D. DAVEY, et al.,  
Defendants.

No. 1:17-cv-01441-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND GRANTING  
DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT

(Doc. Nos. 46, 52)

Plaintiff Enrique Huapaya is a state prisoner proceeding *pro se* and *in forma pauperis* in 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 27, 2019, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion for summary judgment be granted. (Doc. No. 52.) The findings and recommendations were served on the parties and contained notice that any objections were due within thirty days after service. (*Id.* at 13.) On September 30, 2019, plaintiff timely filed objections. (Doc. No. 55.)

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

1           The pending findings and recommendations conclude that plaintiff failed to exhaust  
2 administrative remedies prior to filing suit as to his claims against defendants Pauk<sup>1</sup>, Satterfield,  
3 and Radcliffe and failed to comply with the California Government Claims Act before bringing  
4 his state law claims against defendants Pauk, Satterfield, Radcliffe, and Witt. (Doc. No. 52 at 12–  
5 13.) Accordingly, the magistrate judge recommended plaintiff’s claims against defendants Pauk,  
6 Satterfield, and Radcliffe be dismissed, without prejudice, and that plaintiff’s state law claims  
7 also be dismissed. (*Id.* at 13.)

8           Though plaintiff filed a document captioned as objections, (Doc. No. 55), it does not  
9 appear to the court that plaintiff actually objects to the findings and recommendations. Instead,  
10 plaintiff states that he “moves in request further proceedings towards defendants Pisciotta and  
11 Witt.” (Doc. No. 55 at 16–18.) Plaintiff also indicates that he will seek to exhaust his  
12 administrative remedies as to defendants Pauk , Satterfield, and Radcliffe “for a later time to  
13 return based on the dismissal without prejudice.” (*Id.* at 21–24.) Neither of these statements by  
14 plaintiff constitute an objection to the pending findings and recommendations.

15           Accordingly,

- 16           1.       The findings and recommendations issued on August 27, 2019 (Doc. No. 52) are  
17                   adopted in full;
- 18           2.       Defendants’ motion for summary judgment filed on June 27, 2019 (Doc. No. 46),  
19                   is granted;
- 20           3.       The claims against defendants Satterfield, Pauk, and Radcliffe are dismissed,  
21                   without prejudice, due to plaintiff’s failure to exhaust his administrative remedies  
22                   prior to filing suit; and

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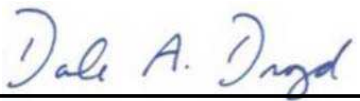
27       <sup>1</sup> The court notes that this defendant’s name is sometimes spelled “Paugh” in the parties’ filings  
28       and the magistrate’s findings and recommendations. This defendant’s name appears spelled as  
      “Pauk” on the court’s docket. Accordingly, that is the spelling used throughout this order.

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4. Plaintiff's state law claims are dismissed for failure to comply with the California Government Claims Act.

IT IS SO ORDERED.

Dated: November 26, 2019

  
UNITED STATES DISTRICT JUDGE