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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

DEON SHIRLEY,

No. CIV S-05-2468-FCD-CMK-P

Plaintiff,

vs.

ORDER

J. TUGGLE, et al.,

Defendants.

_____ /

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On June 3, 2010, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the Magistrate Judge's analysis.

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed June 3, 2010, are adopted in full;


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2. Defendants' motion to dismiss (Doc. 51) is granted;

3. Defendants Franz and Wong are dismissed from this action for failure to exhaust administrative remedies; and

4. This action shall proceed against defendants Tuggle and Clemmons only.

DATED: July 27, 2010.


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE