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

MICHAEL M. COTTRELL,

Plaintiff,

No. CIV S-07-2574 GEB EFB P

vs.

R. K. WONG, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 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 General Order No. 262.

On September 17, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fifteen days. Neither party has filed objections to the findings and recommendations.

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:

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1. The findings and recommendations filed September 17, 2009, are adopted in full;

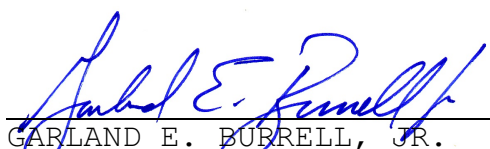
2. The November 7, 2008, motion to dismiss on the ground that plaintiff failed to exhaust the available administrative remedies with respect to his claims against Plainer, Cook and Wong is granted;

3. Plaintiff's claims against Plainer, Cook and Wong are dismissed without prejudice;

4. Plaintiff's claims against Huston in his official capacity are dismissed; and,

5. Defendant Huston is directed to file an answer to the complaint within 30 days.

Dated: December 22, 2009

  
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GARLAND E. BURRELL, JR.  
United States District Judge