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

MALIK JONES,

Plaintiff,

No. 2:08-cv-2607 MCE CKD P

vs.

J. MCGUIRE, et al.,

Defendants.

ORDER

_____ /

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 Rule 302.

On June 22, 2012, the magistrate judge filed findings and recommendations herein (ECF No. 79) 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 twenty-one days. Plaintiff has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.


1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations (ECF No. 79) filed June 22, 2012, are
3 ADOPTED IN FULL;

4 2. The motion to dismiss (ECF No. 57) for failure to exhaust administrative
5 remedies is GRANTED WITH LEAVE TO AMEND as to the following claims: (a) Plaintiff's
6 claim that Defendant Bainbridge used excessive force on September 21, 2007; (b) Plaintiff's
7 claim that Bainbridge used excessive force on October 16, 2007; and (c) Plaintiff's claim that
8 Defendants Follosoco and Lipton used excessive force on November 6, 2007.

9 3. The motion for summary judgment (ECF No. 58) as to the claim
10 that Defendant Lipton was deliberately indifferent to Plaintiff's serious medical need on
11 September 13, 2007, is DENIED.

12 Dated: September 20, 2012

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15 MORRISON C. ENGLAND, JR.
16 UNITED STATES DISTRICT JUDGE
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