

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ROBERT WILLIS,

Plaintiff,

No. CIV S-09-0342 MCE DAD P

vs.

R. WEEKS,

Defendant.

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 October 21, 2011, 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 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 filed October 21, 2011 (ECF No. 56), are
3 ADOPTED in full; and

4 2. Defendant Weeks' motion for summary judgment based on plaintiff's failure to
5 exhaust his Eighth Amendment claim prior to bringing this action (ECF No. 33) is GRANTED;

6 3. Plaintiff's motion for summary judgment (ECF No. 34) is DENIED without
7 prejudice; and

8 4. This matter is referred back to the Magistrate Judge for further proceedings on
9 plaintiff's First Amendment retaliation allegations.

10
11 Dated: January 18, 2012

12 
13 _____
14 MORRISON C. ENGLAND, JR.
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26