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

CHANTHON BUN,

Plaintiff,

No. CIV S-09-0631 LKK EFB P

vs.

T. FELKER, 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 March 1, 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 fourteen days. Defendants have filed objections to the findings and recommendations.

Defendants object on the ground that California law requires “that the inmate name each alleged wrong-doer[] and state all facts related to the alleged wrongdoing,” in order to properly exhaust administrative remedies. Dckt. No. 43 at 2. Defendants’ argument is supported by citations to California Department of Corrections and Rehabilitation emergency regulations,

1 which became operative on January 28, 2011. These regulations, which now require inmates to
2 provide staff member names and “all facts known” in their inmate appeals, did not exist at the
3 time plaintiff was pursuing his administrative remedies. See Cal. Code Regs., tit. 15, §
4 3084.2(a)(3), (4) (2011).


5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
6 304, this court has conducted a de novo review of this case. Having carefully reviewed the
7 entire file, the court finds the findings and recommendations to be supported by the record and by
8 proper analysis.

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. The findings and recommendations filed March 1, 2011, are adopted in full;
11 and

12 2. Defendants’ July 29, 2010 motion to dismiss for failure to exhaust
13 administrative remedies is denied.

14 DATED: March 25, 2011.

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17 LAWRENCE K. KARLTON
18 SENIOR JUDGE
19 UNITED STATES DISTRICT COURT
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