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

DEVONTE B. HARRIS,

Plaintiff,

No. CIV S-09-1523 LKK GGH P

vs.

L. ZAMUDIO, 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 May 24, 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. 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. Although the court does not find that Plaintiff's ability to timely file an


1 unrelated administrative appeal while in administrative segregation undercuts Plaintiff's
2 assertion that he was incapable of filing the third level appeal at issue in this case, the court
3 ultimately agrees with the magistrate judge's determination that Plaintiff has failed to exhaust his
4 administrative remedies against Defendant Zamudio.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The findings and recommendations filed May 24, 2011, are adopted, except as
7 provided herein; and

8 2. Defendants' September 7, 2010 motion to dismiss (Docket No. 30) is granted
9 for plaintiff's failure to exhaust administrative remedies as to defendant Zamudio and this
10 defendant is dismissed, and the motion is denied as to defendants Forrester,¹ Hill and Walker.

11 DATED: September 21, 2012.

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15 LAWRENCE K. KARLTON
16 SENIOR JUDGE
17 UNITED STATES DISTRICT COURT
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26 ¹ This defendant's name was inadvertently misspelled as "Forrester" in the
recommendation clause of the May 24, 2011, findings and recommendations.