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

WILLIAM YOUNG SUTHERLAND,

Plaintiff,

No. CIV S-09-2391 WBS DAD P

vs.

S. HERRMANN, 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 7, 2010, 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. Defendants have not filed any objections to the findings and recommendations. On June 10, 2010, however, plaintiff filed a motion to augment his opposition to defendants' motion to dismiss. While that could be construed as an objection in that it was filed three days after the filing of the findings and recommendations, the court notes that plaintiff dated it June 6, 2010, a day before the findings and recommendations were filed. Further, the court can discern no valid reason to permit

1 plaintiff to augment the record when he prevailed on the motion. Therefore, plaintiff's request to
2 augment his opposition to defendants' motion will not be construed as an objection to the
3 magistrate judge's findings and recommendations and will be denied.


4 The court has reviewed the file and finds the findings and recommendations to be
5 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY
6 ORDERED that:

7 1. Plaintiff's request to augment his opposition to defendants' motion to dismiss
8 (Doc. No. 31) is denied;

9 2 The findings and recommendations filed June 7, 2010, are adopted in full; and

10 3. Defendants' February 10, 2010 motion to dismiss for failure to exhaust
11 administrative remedies prior to filing suit (Doc. No. 17) is denied.

12 DATED: August 5, 2010

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14 WILLIAM B. SHUBB
15 UNITED STATES DISTRICT JUDGE

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