

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
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS HEILMAN,
Plaintiff,
v.
L. SANCHEZ,
Defendant.

No. 10-cv-01120 JAM DB

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 February 17, 2016, defendant filed a motion for summary judgment. (ECF No. 64.) On June 16, 2016 and October 21, 2016, the magistrate judges 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. (ECF Nos. 85; 99.) Both plaintiff and defendant filed objections to the findings and recommendations of June 16, 2016. (ECF Nos. 86; 87.) Plaintiff filed objections to the findings and recommendations of October 21, 2016. (ECF No. 101.)

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

1 court finds the findings and recommendations to be supported by the record and by proper
2 analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed June 16, 2016 (ECF No. 85) are adopted in
5 full;

6 2. The motion (ECF No. 64) is denied without prejudice as to the First Amendment
7 retaliation claim, denied as to the First Amendment access-to-court claim, and the motion is
8 denied on grounds of qualified immunity;

9 3. The findings and recommendations filed October 21, 2016 (ECF No. 99) are adopted
10 in full; and

11 4. The motion (ECF No. 64) is granted for failure to exhaust administrative remedies as
12 to the May 4, 2009, incident and this claim is dismissed with prejudice.

13 DATED: January 6, 2017

14 /s/ John A. Mendez

15 UNITED STATES DISTRICT COURT JUDGE

16
17
18
19
20
21
22
23
24
25
26
27
28