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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOHN HEILMAN,  
Plaintiff,  
v.  
C. CHERNISS, et al.,  
Defendants.

No. 2:11-cv-0042-JAM-EFB P

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 July 31, 2013, 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. Both parties have 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.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed July 31, 2013, are adopted in full;
2. Defendant Forncrook’s motion to dismiss on the ground that plaintiff failed to exhaust available administrative remedies prior to filing suit (ECF No. 55) is denied; and
3. Defendants’ motion for summary judgment (ECF No. 54) is granted as to defendant Lesane on all claims, denied as to the First Amendment retaliation claims against defendants Cherniss and Forncrook, and denied as to the Fourteenth Amendment due process claim against defendant Forncrook

So ordered.

DATED: November 20, 2013

/s/ John A. Mendez  
UNITED STATES DISTRICT COURT JUDGE