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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY M. CORDERO,  
Plaintiff,  
v.  
NICK GUZMAN, et al.,  
Defendants.

No. 2:13-cv-1551 JAM KJN 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 April 20, 2015, 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.

The magistrate judge recommended, in part, that defendants' motion for summary judgment on grounds that plaintiff failed to exhaust administrative remedies as to his claims against defendant Parra be denied. The magistrate judge found that he could not determine from the record whether plaintiff had exhausted his administrative remedies as to his claims against defendant Parra. In their objections, defendants argue that the record demonstrates that plaintiff

1 did exhaust his claims as to defendant Parra. In the alternative, defendants request an evidentiary  
2 hearing.

3 The undersigned agrees with the magistrate judge that it is not clear from the record  
4 whether plaintiff exhausted his administrative remedies as to his claims against defendant Parra.  
5 Good cause appearing, this action is remanded to the magistrate judge for an evidentiary hearing  
6 regarding this matter. See Albino v. Baca, 747 F.3d 1162, 1169 (9th Cir. 2014).

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

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The findings and recommendations filed April 20, 2015 are adopted; and
- 13 2. Defendants' summary judgment motion (ECF No. 50) is granted as to defendants  
14 Mejia, Vincent, Smith and Bargarin, and as to plaintiff's negligence claim against defendant  
15 Guzman; and denied as to plaintiff's federal claims against defendant Guzman and Parra;
- 16 3. The April 20, 2015 findings and recommendations are adopted with respect to the  
17 finding that it cannot be determined from the record whether plaintiff exhausted his  
18 administrative remedies with respect to his claims against defendant Parra; this action is  
19 remanded to the magistrate judge to conduct an evidentiary hearing with respect to this issue.

20 DATED: June 17, 2015

21 /s/ John A. Mendez

22 UNITED STATES DISTRICT COURT JUDGE  
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