

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

JOHNNY L FRANKLIN, JR,

Plaintiff,

v.

F. FOULK, et al.,

Defendants.

No. 2:14-cv-00057 KJM DB

ORDER

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983 alleging each defendant was deliberately indifferent to his serious medical needs while he was incarcerated at High Desert State Prison (HDSP). 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 March 1, 2017, the magistrate judge filed findings and recommendations 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 No. 94.) Neither party has filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having

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

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed March 1, 2017 (ECF No. 94) are adopted
5 in full;

6 2. Defendants' motion for summary judgment for failure to exhaust administrative
7 remedies is granted in part and denied in part;

8 3. Defendants' motion for summary judgment concerning the claims against
9 defendants Lee, Rohlfing, and Swingle is denied;

10 4. Defendants' motion for summary judgment concerning the claims against
11 defendants Kelsey and Ray is granted; and

12 5. The claims against defendants' Kelsey and Ray for deliberate indifference to
13 serious medical needs are dismissed for failure to exhaust administrative remedies.

14 DATED: March 21, 2017

15
16 
17 _____
18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25
26
27
28