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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHAVOUGUE A. MASON,  
Plaintiff,  
v.  
M.L. MARTINEZ, et al.,  
Defendants.

No. 2:14-cv-1041 MCE AC 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 March 9, 2016, 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. ECF No. 42. Both parties have filed objections to the findings and recommendations. ECF Nos. 46, 47.

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

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1 Court finds the findings and recommendations to be supported by the record and by proper  
2 analysis.<sup>1</sup>

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed March 9, 2016 (ECF No. 42), are ADOPTED  
5 in full.

6 2. Defendants motion for partial summary judgment (ECF No. 22) is GRANTED and part  
7 and DENIED in part as follows:


8 a. GRANTED as to defendant V. Martinez and the claims against defendant V.  
9 Martinez are DISMISSED without prejudice for failure to exhaust.

10 b. DENIED as to defendants Major, Lozano, Matteson, and Kyte.

11 3. The case proceeds on the claims against defendants M. Martinez, Major, Lozano,  
12 Matteson, and Kyte.

13 IT IS SO ORDERED.

14 Dated: March 29, 2016

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17 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
18 UNITED STATES DISTRICT COURT  
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25 <sup>1</sup> In denying the motion for summary judgment as to defendants Lozano, Matteson,  
26 Major, and Kyte, the magistrate judge relied on Reyes v. Smith, 810 F.3d 654 (9th Cir. 2016).  
27 Defendants object on the ground that they disagree with the reasoning in Reyes and note that the  
28 defendants-appellees in that case filed a Petition for Panel Rehearing and Rehearing En Banc.  
ECF No. 46. However, a week before defendants filed their objections, the Ninth Circuit denied  
the petition for rehearing and for rehearing en banc. Reyes v. Smith, No. 13-17119, Docket No.  
49 (9th Cir. Mar. 16, 2016).