UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL GARCIA,

Plaintiff,

v.

F. FOLKS, et al.,

Defendants.

No. 2:14-cv-2378 JAM DB 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 January 29, 2018, 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. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed January 29, 2018 (ECF No. 96) are adopted in full;

2. Defendants' motion for summary judgment (ECF No. 80) is denied on the issue of exhaustion and denied without prejudice on the merits;

3. Defendants' motion to strike the sur-reply (ECF No. 95) is granted; and

4. This case is referred back to the magistrate judge for the appointment of counsel for plaintiff and to conduct an evidentiary hearing on the exhaustion issues identified in the January 29 findings and recommendations.

DATED: March 29, 2018

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE

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