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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ELI'EZER RE'UEL BEN-BINYAMIN,

Plaintiff,

v.

C. RAMIREZ, et al.,

Defendants.

No. 2:18-cv-01015-KJM-JDP (PC)

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 as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 17, 2021, 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. No 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 Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court

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

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed February 17, 2021, are adopted in full;
- 5 2. Defendants’ motion for summary judgment, ECF No. 47, is granted, and all claims
6 other than those against defendant Akemon arising out of the incident on August 29, 2016, and
7 those against Ramirez and Hanley arising out of the incident on September 11, 2017, are
8 dismissed without prejudice as unexhausted;
- 9 3. Plaintiff’s motion for continuance, ECF No. 51, is denied;
- 10 4. Plaintiff’s motion to amend, ECF No. 53, is denied; and
- 11 5. This matter is referred back to the assigned magistrate judge for all further pretrial
12 proceedings.

13 DATED: June 24, 2021.

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16 CHIEF UNITED STATES DISTRICT JUDGE
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