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**United States District Court**  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VICTOR GUERRERO,  
Plaintiff,

No. C 13-05671 WHA

v.

CALIFORNIA DEPARTMENT OF CORRECTIONS  
& REHABILITATION, et al.,  
Defendants.

**ORDER DENYING MOTIONS  
FOR SUMMARY JUDGMENT**

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The essence of this action is as follows. Plaintiff identifies himself as Latino. He applied to be a correctional officer with defendant California Department of Corrections and Rehabilitation (“CDCR”). On his questionnaire, he admitted to previously using a false social security number. As a result, he was withheld from the list of eligible candidates, a decision he appealed to defendant State Personnel Board (“SPB”). The SPB analyst recommended denying the appeal. SPB then remanded to the SPB analyst “for clarification on how [plaintiff] was able to obtain his social security number in 2005, when the findings indicate that he did not become a permanent resident until 2007, and did not become a naturalized US citizen until 2010.” The SPB analyst then telephoned plaintiff and interviewed him in an unrecorded call. The board affirmed the CDCR’s decision. He then applied again and was withheld again. He now alleges, *inter alia*, that the question regarding prior use of another social security number on the employer’s questionnaire has a disproportionate impact on Latinos. He further alleges that he was denied due process of law. Fact discovery has not closed.

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Defendants move to dismiss the procedural due process claim and CDCR moves to dismiss the Title VII claim. Having considered the papers and heard oral argument, the Court is convinced that triable issues remain. Both sides would benefit from further development of the record. Accordingly, the motions for summary judgment are **DENIED**. The evidentiary objections and motion to strike are **DENIED WITHOUT PREJUDICE**. All existing deadlines remain in place.

**IT IS SO ORDERED.**

Dated: September 30, 2014.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE