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6	UNITED STATES DISTRICT COURT	
7	DISTRICT OF NEVADA	
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9	KENNETH SCHIRO,	
10	Plaintiff,)	3:10-CV-00203-RCJ(VPC)
11	STEPHEN CLARK, et al.,	ORDER
12	Defendants.	ONDER
13) ————————————————————————————————————	
14	Before the Court is the Report and Recommendation of the United States Magistrate Judge (#54)	
15	("Recommendation") entered December 8, 2011, in which the Magistrate Judge recommends that this	
16	Court grant in part and deny in part Defendants' Partial Motion to Dismiss (#35) and grant Defendants'	
17	Motion to Strike (#46). Plaintiff filed his Objections to Magistrate Judge's Report & Recommendation	
18	(#58) on December 29, 2011 and Defendants filed a response on December 30, 2011.	
19	The Court has conducted it's de novo review in this case, has fully considered the objections of	
20	the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record pursuant	
21	to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-2. The Court determines that the Magistrate Judge's	
22	Report and Recommendation (#54) entered December 8, 2011, should be adopted and accepted.	
23	IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation (#54)	
24	entered December 8, 2011, is adopted and accepted.	
25	IT IS FURTHER ORDERED that Defendants' Partial Motion to Dismiss (#35) Plaintiff's four	
26	claims as set forth in Count I are GRANTED IN PART and DENIED IN PART as follows:	
27	1. Plaintiff's Eighth Amendment claims against Defendants Hegge and Chacon are barred	
28	by the statute of limitations and DISMISSED WITH PREJUDICE;	

- 2. Plaintiff's Fourteenth Amendment claim against Defendant Jimenez is barred by the statute of limitations and DISMISSED WITH PREJUDICE;
- 3. Defendants' Motion to Dismiss Plaintiff's First Amendment claim against Defendant Herrera is DENIED because Defendants have not proven that Plaintiff failed to exhaust his administrative remedies.

IT IS FURTHER ORDERED that Defendants' Motion to Strike (#46) is GRANTED. IT IS SO ORDERED.

DATED: This 31st day of January, 2012.

ROBERT C. JON Chief Judge