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

KENNETH DUANE ARLINE, JR.,
Plaintiff,
vs.
WARDEN KEN CLARK,
Defendant.

1:07-cv-01097-LJO-GSA-PC
ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS
(Doc. 42)
ORDER FOR THIS ACTION TO PROCEED
ON PLAINTIFF'S CLAIMS BASED ONLY
ON TWO SPECIFIC INSTANCES OF
MODIFIED PROGRAMMING, AND
DISMISSING ALL OTHER CLAIMS

_____ /

Kenneth Duane Arline, Jr. ("plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 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 72-302.

On April 9, 2010, findings and recommendations were entered, recommending that this action proceed against defendant Warden Ken Clark for inadequate outdoor exercise under the Eighth Amendment, only with regard to two specific instances of modified programming, one beginning on August 15, 2006, and the other beginning on October 20, 2006, and that all other claims be dismissed. (Doc. 42.) On April 20, 2010, plaintiff filed a notice of non-opposition to the findings and recommendations. (Doc. 44.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 73-305, this court has conducted a de novo review of this case. Having carefully reviewed the entire

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

3 Accordingly, THE COURT HEREBY ORDERS that:

4 1. The Findings and Recommendations issued by the Magistrate Judge on April 9,
5 2010, are adopted in full; and

6 2. This action now proceeds against defendant Warden Ken Clark for inadequate
7 outdoor exercise under the Eighth Amendment, only with regard to two specific instances of
8 modified programming, one beginning on August 15, 2006, and the other beginning on October 20,
9 2006, and all other claims are dismissed.

10 IT IS SO ORDERED.

11 **Dated: June 1, 2010**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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