

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HARVEY CURTIS BAKER,)	Case No.: 1:12-cv-00126-LJO-SAB (PC)
Plaintiff,)	
v.)	ORDER ADOPTING FINDINGS AND
S. MOORE,)	RECOMMENDATION, DENYING
Defendant.)	DEFENDANT’S MOTION FOR SUMMARY
)	JUDGMENT, AND REFERRING CASE BACK TO
)	MAGISTRATE JUDGE
)	(ECF Nos. 88, 110)
)	

Plaintiff Harvey Curtis Baker (“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 302. On August 1, 2016, the magistrate judge filed a findings and recommendation recommending that Defendant S. Moore’s motion for summary judgment in this matter be denied. (ECF No. 110.) The findings and recommendation was served on the parties with notice that any objections were to be filed within thirty (30) days of service. Over thirty (30) days have passed, and no objections have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendation to be supported by the record and by proper analysis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendation, filed on August 1, 2016, is adopted in full;
2. Defendant S. Moore's motion for summary judgment is DENIED;
3. This matter shall proceed to a jury trial on Plaintiff's claim against Defendant S. Moore for failure to protect in violation of the Eighth Amendment; and
4. This case is referred back to the magistrate judge for further proceedings.

IT IS SO ORDERED.

Dated: September 15, 2016

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