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

MICHAEL J. PAYAN,	)	1:13cv00807 LJO DLB PC
	)	
Plaintiff,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS AND DENYING
vs.	)	DEFENDANTS' MOTION TO DISMISS
	)	
H. TATE, et al.,	)	(Document 38)
	)	
Defendants.	)	

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Plaintiff Michael J. Payan (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on May 28, 2013.

On April 16, 2014, Defendants filed a motion to dismiss the Eighth Amendment claim pursuant to Federal Rule of Civil Procedure 12(b)(6). 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 October 15, 2014, the Magistrate Judge issued [Findings and Recommendations](#) that Defendants’ motion be denied. The Findings and Recommendations were served on the parties and contained notice that any objections must be filed within thirty days. Neither party has filed objections.

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

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The Findings and Recommendations, filed October 15, 2014, are adopted in full;
  - 6 2. Defendants' motion to dismiss (Document 17) is DENIED; and
  - 7 3. Defendants SHALL file a response within thirty (30) days of the date of service of  
8 this order.
- 9 IT IS SO ORDERED.

10 Dated: November 25, 2014

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