

1 The Court has also reviewed Plaintiff's objections to the Findings and Recommendations.
2 Plaintiff argues that he exhausted administrative remedies for his Eight Amendment claim regarding
3 being labeled a snitch by Defendant Johnson by filing Appeal SATF-X-13-03692. ECF No. 100. In
4 Appeal SATF-X-13-03692, Plaintiff complained that he was misquoted in a Rules Violation Report
5 ("RVR") issued for possession of controlled substances, and requested that the misquote and other
6 inaccuracies be corrected in the final copy of the RVR. ECF No. 99 ¶¶ 14-16. Specifically, the
7 Appeal states that "[Johnson] has misquoted me in a legal document making me out to be a jail house
8 snitch, consequently putting my life in jeopardy [and] immediate danger." ECF No. 84-4 at 11;
9 Zamora Decl. Ex. B. The alleged misquoting of Plaintiff in the RVR is separate and distinct from the
10 conduct forming the basis of Plaintiff's claim that "[i]mmediately after the hearing was over
11 correctional officers [including Johnson] started telling all of the inmates house[d] in Build[ing] E-1
12 that the Plaintiff 'was a snitch and need [sic] to get dealt with.'" ECF No. 14 at 16. Johnson's actions
13 outside of the rules violation hearing and issuance of the subsequent RVR were not the subject of
14 Appeal SATF-X-13-03692. Additionally, Johnson's misquoting Plaintiff in the RVR forms the basis
15 for a separate claim for retaliation, which remains pending in this case. Plaintiff's objections are
16 therefore without merit.

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. The Findings and Recommendations, filed on May 25, 2018, are adopted in full;
- 19 2. Defendants' exhaustion related motion for summary judgment is granted in part and
20 denied in part, as follows:
 - 21 a. Plaintiff's Eighth Amendment claim regarding labeling him a snitch against Defendants
22 Sanchez, Chan, Alva, Johnson, Ybarra, Esqueda and Santos is dismissed, without prejudice;
 - 23 b. Plaintiff's Eighth Amendment claim regarding housing him with inmate Russ against
24 Defendants Chan and Sanchez is dismissed, without prejudice; and
 - 25 c. The matter is referred back to the Magistrate Judge for an evidentiary

1 hearing pursuant to Albino v. Baca, 747 F.3d 1162, 1170 (9th Cir. 2014), on Plaintiff’s Eighth
2 Amendment claim against Defendant Alva for housing him with inmate Baker and Due Process claim
3 against Defendant Ybarra.¹
4

5 IT IS SO ORDERED.

6 Dated: July 30, 2018

/s/ Lawrence J. O’Neill
7 UNITED STATES CHIEF DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 _____
26 ¹ As stated in the Findings and Recommendation, although Defendants request an evidentiary hearing on all of Plaintiff’s
27 other claims for which they did not move for summary judgment, the Court will not adjudicate those claims at the
28 evidentiary hearing because those claims were not presented and argued in the present motion. There is no basis for an
evidentiary hearing on claims for which Plaintiff did not have fair and adequate notice by way of motion for summary
judgment.