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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 KEVIN T. FLEMINGS,

12 Plaintiff,

13 v.

14 C. GRAY, et al.,

15 Defendants.
16

Case No. 1:14-cv-01248 LJO DLB PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATION

[ECF No. 11]

17 Plaintiff Kevin T. Flemings (“Plaintiff”) is a state prisoner proceeding pro se and in
18 forma pauperis in this civil rights action. Plaintiff filed this action on August 8, 2014.

19 On July 17, 2015, the Magistrate Judge screened Plaintiff’s Complaint and found that it
20 stated the following claims: (1) violation of Plaintiff’s procedural due process rights by
21 Defendants Gray, Timmons, and White; and (2) violation of the Eighth Amendment’s
22 prohibition against cruel and unusual punishment against Defendants Gray, Timmons, and
23 White. The Court ordered Plaintiff to file an amended complaint or notify the Court of his
24 willingness to proceed only on these claims.

25 On July 27, 2015, Plaintiff notified the Court that he wanted to proceed only on the
26 cognizable claims identified above.

27 Accordingly, on August 4, 2015, the Magistrate Judge issued Findings and
28 Recommendations that recommended the action be ORDERED to proceed on the following

1 claims: (1) violation of Plaintiff's procedural due process rights by Defendants Gray, Timmons,
2 and White; and (2) violation of the Eighth Amendment's prohibition against cruel and unusual
3 punishment against Defendants Gray, Timmons, and White. It was further recommended that
4 the remaining claims, as well as Defendant F. Feliciano, be DISMISSED from this action. The
5 Findings and Recommendations were served on Plaintiff and contained notice that any
6 objections were to be filed within fourteen (14) days. Over fourteen days have passed and
7 Plaintiff has not filed objections.

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

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The Findings and Recommendations, filed August 4, 2015, are ADOPTED in full;
13 2. This action is ORDERED to proceed on the following claims: (1) violation of Plaintiff's
14 procedural due process rights by Defendants Gray, Timmons, and White; and (2) violation of the
15 Eighth Amendment's prohibition against cruel and unusual punishment against Defendants Gray,
16 Timmons, and White; and
17 3. The remaining claims, as well as Defendant F. Feliciano, are DISMISSED from this
18 action.

19
20 IT IS SO ORDERED.

21 Dated: August 21, 2015

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