

1 On August 5, 2016, defendants filed a motion to dismiss or, in the alternative, a motion
2 for summary judgment. (Doc. No. 29.) After receiving two extensions of time in which to do so,
3 plaintiff filed his opposition to that motion on November 17, 2016. (Doc. No. 36.) Defendants
4 filed a reply on November 29, 2016. (Doc. No. 39.)

5 On February 2, 2017, the assigned magistrate judge issued findings and recommendations
6 addressing defendants' motion. (Doc. No. 41.) Therein, the magistrate judge recommended that
7 defendants' motion for summary judgment should be granted with respect to defendant
8 Masterson, and denied as to all other defendants. (*Id.* at 26.) These findings and
9 recommendations were served on the parties and contained notice that any objections thereto
10 were to be filed within thirty days of service. (*Id.*) After receiving an extension of time in which
11 to do so, defendants filed objections to the findings and recommendations on March 24, 2017.
12 (Doc. No. 44.)

13 In their objections, defendants argue that the magistrate judge erred in concluding that all
14 defendants except Masterson were not entitled to summary judgment in their favor. (*Id.*) With
15 respect to claims against defendant Thissell, defendants argue that the complaint alleges only
16 single pat down-search of plaintiff conducted on September 14, 2014, which did not rise to the
17 level of an Eighth Amendment violation. (Doc. No. 44 at 7–8.) However, this argument was
18 fully considered and rejected by the magistrate judge for the reasons explained in the findings and
19 recommendations. Therein, the magistrate judge observes that the SAC alleges a number of
20 different searches conducted by defendant Thissell, each of which allegedly involved sexually
21 harassing conduct. (Doc. No. 41 at 14–15.) The undersigned agrees with the magistrate judge's
22 conclusion that defendant Thissell is not entitled to summary judgment with respect to plaintiff's
23 claim against him.

24 With regard to defendants Mahdavi, Smith, and Knoll, defendants argue in their
25 objections that plaintiff has not sufficiently alleged, nor offered any evidence, that these
26 defendants inadequately performed their duties or were placed on notice of any "substantial risk
27 of harm" faced by plaintiff. (Doc. No. 44 at 9–10.) These arguments, however, are the same as
28 those presented in defendants' summary judgment motion, and the undersigned finds these

1 arguments unpersuasive for the reasons articulated by the magistrate judge in his findings and
2 recommendations.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
4 *de novo* review of this case. Having carefully reviewed the entire file, including the defendants'
5 objections, the court finds the findings and recommendations to be supported by the record and
6 by proper analysis.

7 Accordingly,

- 8 1. The February 2, 2017 findings and recommendations (Doc. No. 41) are adopted in
9 full;
- 10 2. Defendants' motion to dismiss or, in the alternative, for summary judgment (Doc. No.
11 29) is granted as to defendant Masterson only and denied in all other respects;
- 12 3. This case is referred back to the magistrate judge for further proceedings.

13 IT IS SO ORDERED.

14 Dated: March 29, 2017

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17 UNITED STATES DISTRICT JUDGE
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