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10   UNITED STATES DISTRICT COURT

11   EASTERN DISTRICT OF CALIFORNIA

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13   BRIAN APPLEGATE,   CASE NO. 1:15-cv-01054-AWI-MJS (PC)

14   Plaintiff,   **ORDER ADOPTING FINDINGS AND**
                                             RECOMMENDATIONS TO GRANT IN
15   v.   **PART AND DENY IN PART**
                                             DEFENDANT'S MOTION FOR SUMMARY
16   WINFRED KOKOR,   **JUDGMENT ON EXHAUSTION**
                                             GROUNDS
17   Defendant.
                                             (ECF No. 25)
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19   **CASE TO REMAIN OPEN**

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21   Plaintiff is a prisoner proceeding pro se and in forma paurperis in this civil rights

22   action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States

23   Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

24   On November 2, 2016, the Magistrate Judge assigned to this case issued findings

25   and recommendations to grant in part and deny in part Defendant's motion for summary

26   judgment on exhaustion grounds. (ECF No. 36.) Therein, the Judge recommended

27   dismissing Plaintiff's retaliation claim for failure to exhaust, but found that Plaintiff had

28   properly exhausted his claims relating to the denial of access to an accessible shower

and rescission of his ADA status. The parties were given fourteen days to file their objections. No objections were filed, and the time to do so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, it is HEREBY ORDERED that:

1. The Court adopts the findings and recommendations filed on November 2, 2016 (ECF No. 36) in full;

2. Defendant's motion for summary judgment (ECF No. 25) is GRANTED in part and DENIED in part; and

3. The case shall proceed on Plaintiff's Eighth Amendment medical indifference claims against Dr. Kokor for denying Plaintiff access to an accessible shower and rescinding Plaintiff's ADA status.

IT IS SO ORDERED.

Dated: ___February 8, 2017___   _____

SENIOR DISTRICT JUDGE