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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 JOSEPH D. RODRIGUEZ,

11 Plaintiff,

12 vs.

13 EDMUND G. BROWN, JR., et al.,

14 Defendants.
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1:15-cv-01754-LJO-EPG-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
SHERMAN ON PLAINTIFF'S CONDITIONS
OF CONFINEMENT CLAIM AND RELATED
STATE CLAIMS, AND THAT ALL OTHER
CLAIMS AND DEFENDANTS BE
DISMISSED

16 OBJECTIONS, IF ANY, DUE IN 20 DAYS

17 Joseph D. Rodriguez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
18 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The case now proceeds on the
19 original Complaint filed by Plaintiff on November 19, 2015. (ECF No. 1.) The Complaint
20 names as defendants Edmund G. Brown, Jr. (Governor of California); Kelly Harrington
21 (Director of California Department of Corrections and Rehabilitation); and Stuart Sherman
22 (Warden of the California Substance Abuse Treatment Facility (SATF)), and alleges claims for
23 adverse conditions of confinement under the Eighth Amendment and related state claims.

24 The Court screened Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A and found that
25 it states a cognizable claim under § 1983 against Stuart Sherman. (ECF No. 6.) On December
26 8, 2015, Plaintiff was granted leave to either file an amended complaint or notify the Court that
27 he is willing to proceed only on the Eighth Amendment conditions of confinement claim
28 against defendant Stuart Sherman found cognizable by the Court and related state claims. (Id.)

1 On February 25, 2016, Plaintiff filed a notice informing the Court that he is willing to proceed
2 only on the cognizable claim against defendant Stuart Sherman and related state claims. (ECF
3 No. 11.)

4 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 5 1. This action proceed only against defendant Stuart Sherman, on Plaintiff's claim
6 for adverse conditions of confinement under the Eighth Amendment, and related
7 state claims;
- 8 2. All remaining claims and defendants be dismissed from this action; and
- 9 3. Defendants Edmund G. Brown, Jr., and Kelly Harrington be dismissed from this
10 action based on Plaintiff's failure to state any claims against them;

11 These Findings and Recommendations will be submitted to the United States District
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
13 twenty (20) days after being served with these Findings and Recommendations, Plaintiff may
14 file written objections with the Court. The document should be captioned "Objections to
15 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
16 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
17 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
18 (9th Cir. 1991)).

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20 IT IS SO ORDERED.

21 Dated: April 5, 2016

22 /s/ Eric P. Grogan
23 UNITED STATES MAGISTRATE JUDGE
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