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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

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 13.)

ORDER FOR THIS ACTION TO
PROCEED ONLY AGAINST
DEFENDANT SHERMAN ON
PLAINTIFF'S CONDITIONS OF
CONFINEMENT CLAIM AND RELATED
STATE CLAIMS

ORDER DISMISSING ALL OTHER
CLAIMS AND DEFENDANTS

19 Joseph D. Rodriguez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
20 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now
21 proceeds on Plaintiff's original Complaint filed on November 19, 2015. (ECF No. 1.) The
22 matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B)
23 and Local Rule 302.

24 On April 5, 2016, the Court entered Findings and Recommendations, recommending
25 that this action proceed only against defendant Stuart Sherman, on Plaintiff's claim for adverse
26 conditions of confinement and related state claims, and that all other claims and defendants be
27 dismissed from this action based on Plaintiff's failure to state a claim. (ECF No. 13.) Plaintiff
28 was provided an opportunity to file objections to the Findings and Recommendations within

1 twenty days. To date, Plaintiff has not filed objections or otherwise responded to the Findings
2 and Recommendations.

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

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The Findings and Recommendations issued by the Magistrate Judge on April 5,
9 2016, are ADOPTED in full;
- 10 2. This action now proceeds with Plaintiff's original Complaint, filed on
11 November 19, 2015, against defendant Stuart Sherman, on Plaintiff's conditions
12 of confinement claim under the Eighth Amendment, and related state claims;
- 13 3. All remaining claims and defendants are DISMISSED from this action;
- 14 4. Defendants Edmund G. Brown, Jr. (Governor of California) and Kelly
15 Harrington (Director of CDCR) are DISMISSED from this action based on
16 Plaintiff's failure to state any claims upon which relief may be granted against
17 them;
- 18 5. Plaintiff's official capacity and supervisory liability claims are DISMISSED
19 from this action based on Plaintiff's failure to state a claim;
- 20 6. The Clerk is DIRECTED to reflect the dismissal of all defendants except
21 defendant Stuart Sherman from this case on the Court's docket; and
- 22 7. This case is referred back to the Magistrate Judge for further proceedings.

23 IT IS SO ORDERED.
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25 Dated: May 7, 2016

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