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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUPERT FLOWERS,
 Plaintiff,

 v.

B. JOHNSON, et al.,
 Defendants.

CASE NO. 1:15-cv-01778- AWI-MJS (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO GRANT IN
PART DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT**

(ECF Nos. 31, 46)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 11, 2017, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS **HEREBY ORDERED** that:

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1. The findings and recommendations filed December 11, 2017 (ECF No. 46), are adopted in full;

2. Defendants' motion for summary judgment (ECF No. 31) is GRANTED IN PART as follows:

- a. Summary judgment is GRANTED for Lt. Marsh on Plaintiff's failure to intervene claim insofar as it relates to Lt. Marsh's conduct predating the assault; and
- b. Summary judgment is DENIED for Lt. Marsh on Plaintiff's failure to intervene claim insofar as it relates to the alleged assault outside of the Program Office.

IT IS SO ORDERED.

Dated: January 29, 2018



SENIOR DISTRICT JUDGE