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8	UNITED STATE	S DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	DAVID CREW,	Case No. 1:16-cv-00590-LJO-BAM (PC)
12	Plaintiff,	ORDER ADOPTING FINDINGS AND
13	V.	RECOMMENDATIONS RECOMMENDING DENIAL WITHOUT PREJUDICE OF
14	DEPARTMENT OF CORRECTIONS	DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DENIAL OF
15	AND REHABILITATION, et al.,	PLAINTIFF'S RELATED MOTIONS IN OPPOSITION
16	Defendants.	(ECF No. 53)
17		
18	Plaintiff David Crew ("Plaintiff") is a state prisoner proceeding pro se and in forma	
19	pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.	
20	From June 2017 through February 2018, Plaintiff filed a motion to file an emergency	
21	amended complaint, as well as a series of motions in support. (ECF Nos. 30, 39, 45.) In addition,	
22	the parties filed various motions relating to discovery disputes and other matters. (ECF Nos. 38,	
23	40, 41, 42, 43, 49, 50.)	
24	On September 11, 2017, Defendant Patel filed a motion for summary judgment on the	
25	ground that Plaintiff failed to exhaust available administrative remedies. (ECF No. 44.)	
26	On September 29, 2017, Plaintiff filed a motion to file a factual dispute of Defendant's	
27	summary judgment motion, a motion to file a	criminal complaint, a motion for emergency trial by
28	jury, and a motion to dismiss the summary ju	dgment motion to exhaust. (ECF No. 47.) It

1	appeared that Plaintiff intended this motion to be an opposition to Defendant's motion for		
2	summary judgment. Defendant Patel filed a response on October 27, 2017. (ECF No. 48.)		
3	On March 29, 2018 the Court issued an order granting Plaintiff's motions regarding the		
4	filing of a third amended complaint, and denying, without prejudice to re-filing, the other pending		
5	motions related to discovery. (ECF No. 52.) The Court also vacated the discovery and		
6	scheduling order issued on June 13, 2017. Plaintiff's third amended complaint is currently due on		
7	or before May 1, 2018. (<u>Id.</u>)		
8	On April 3, 2018, the Magistrate Judge issued findings and recommendations		
9	recommending that Defendant's motion for summary judgment be denied without prejudice to re-		
10	filing and Plaintiff's related motions filed in opposition be denied. (ECF No. 53.) The findings		
11	and recommendations were served on the parties and contained notice that any objections were to		
12	be filed within fourteen (14) days after service. (Id. at 3-4.) No objections have been filed, and		
13	the deadline in which to do so has expired.		
14	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a		
15	de novo review of this case. Having carefully reviewed the entire file, the Court finds the		
16	findings and recommendations to be supported by the record and by proper analysis.		
17	Accordingly, IT IS HEREBY ORDERED that:		
18	1. The findings and recommendations issued on April 3, 2018, (ECF No. 53), are		
19	adopted in full;		
20	2. Defendant's motion for summary judgment, (ECF No. 44), is denied, without		
21	prejudice to re-filing;		
22	3. Plaintiff's motion to file factual dispute of summary judgment, motion to file criminal		
23	complaint, motion for emergency trial by jury, motion to dismiss summary judgment,		
24	and motion to exhaust, (ECF No. 47), is denied; and		
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1	4. This action is referred back to the assigned Magistrate Judge for further proceedings
2	consistent with this order.
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4	IT IS SO ORDERED.
5	Dated: April 27, 2018 /s/ Lawrence J. O'Neill
6	UNITED STATES CHIEF DISTRICT JUDGE
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