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7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
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10 ANDRE UNDERWOOD,

11 Plaintiff,

12 v.

13 R. COX and C. STANLEY,

14 Defendants.  
15

Case No. 1:16-cv-00597-LJO-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(ECF. NOS 43 & 54)

16 Andre Underwood (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*  
17 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. This action is  
18 proceeding on Plaintiff’s First Amended Complaint (ECF No. 9) against defendants R. Cox and  
19 C. Stanley for violation of the Eighth Amendment based on conditions of confinement,  
20 specifically the lack of outdoor exercise. (ECF No. 42, p. 2). The matter was referred to a  
21 United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

22 On January 19, 2018, defendant Cox filed a motion for summary judgment on the  
23 grounds that Plaintiff failed to properly exhaust his available administrative remedies. (ECF  
24 No. 43). On March 8, 2018, Magistrate Judge Erica P. Grosjean entered findings and  
25 recommendations, recommending that Defendant Cox’s motion for summary judgment be  
26 denied. (ECF No. 54).<sup>1</sup>

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28 <sup>1</sup> An evidentiary hearing on the issue of exhaustion is currently set for July 17, 2018. (ECF No. 53).

1 The parties were provided an opportunity to file objections to the findings and  
2 recommendations. The deadline to file objections has passed, and no objections have been  
3 filed.

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

8 Accordingly, THE COURT HEREBY ORDERS that:

- 9 1. The findings and recommendations issued by the magistrate judge on March 8,  
10 2018, are ADOPTED in full;
- 11 2. Defendant Cox's motion for summary judgment is DENIED; and
- 12 3. This case is referred back to the magistrate judge for further proceedings.

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14 IT IS SO ORDERED.

15 Dated: April 11, 2018

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