## 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 JOHN E. MITCHELL, No. 1:16-cv-01148-DAD-EPG 12 Plaintiff. 13 v. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS AND DISMISSING 14 **CERTAIN CLAIMS AND DEFENDANTS** D. DAVEY, et al., 15 Defendants. (Doc. Nos. 86, 88, 91) 16 17 18 Plaintiff John Mitchell is a state prisoner proceeding pro se in this civil rights action 19 brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate 20 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 21 On October 2, 2018, the assigned magistrate judge issued findings and recommendations, 22 recommending that all claims and defendants be dismissed, save and except for plaintiff's claim 23 against defendants Thompson and Robicheaux for violation of plaintiff's free exercise rights 24 under the First Amendment. (Doc. No. 86 at 8.) On October 16, 2018, defendant Thompson filed a motion to dismiss contending that on 25 26 the face of plaintiff's complaint, plaintiff failed to exhaust his available administrative remedies 27 prior to filing suit as to his claim against defendant Thompson. (Doc. No. 88.) On November 2, 28 2018, plaintiff filed a response, conceding that he failed to exhaust his claim against defendant

1	Thompson. (Doc. No. 90 at 1.) Accordingly, on November 6, 2018, the assigned magistrate	
2	judge issued findings and recommendations, recommending that defendant Thompson's motion	
3	to dismiss be granted and that defendant Thompson be dismissed from this case. (Doc No. 91.)	
4	As to each of the findings and recommendations, the parties were provided an opportunity to file	
5	objections. To date, no objections have been filed, and the time in which to do so has now	
6	passed.	
7	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this	
8	court has conducted a <i>de novo</i> review of this case. Having carefully reviewed the entire file, the	
9	court finds the findings and recommendations to be supported by the record and proper analysis.	
10	Accordingly,	
11	1.	The findings and recommendations issued on October 2, 2018 (Doc. No. 86) are
12		adopted in full;
13	2.	The findings and recommendations issued on November 6, 2018 (Doc. No. 91) are
14		adopted in full;
15	3.	Defendant Thompson's motion to dismiss (Doc. No. 88) is granted;
16	4.	All claims and defendants are dismissed, save and except for plaintiff's claim
17		against defendant Robicheaux for violation of plaintiff's free exercise rights under
18		the First Amendment;
19	5.	The Clerk of Court is directed to reflect the dismissal of all defendants except
20		CRM M.S. Robicheaux on the court's docket; and
21	6.	This case is referred back to the magistrate judge for further proceedings.
22	IT IS SO ORDERED.	
23	Dated: <b>December 17, 2018</b>	December 17, 2018 Vale A. Drogd
24		UNITED STATES DISTRICT JUDGE
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