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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 TONY ASBERRY,

12 Plaintiff,

13 vs.

14 C. RELEVANTE, R. LOZOVY, A.
15 FERRIS, and P. GODFREY,

16 Defendants.
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Case No. 1:16-cv-01741-LJO-JDP (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO
(1) GRANT PLAINTIFF'S MOTION FOR
LEAVE TO AMEND COMPLAINT;
(2) ALLOW PLAINTIFF TO PROCEED
ONLY ON COGNIZABLE CLAIMS; AND
(3) DENY PLAINTIFF'S MOTIONS FOR
SUMMARY JUDGMENT

(ECF No. 148)

18 Tony Asberry is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil
19 rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States
20 magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

21 On August 31, 2018, the assigned magistrate judge issued findings and
22 recommendations that the court grant Plaintiff's motion for leave to amend the complaint,
23 allow Plaintiff to proceed only on cognizable claims, and deny plaintiff's motions for summary
24 judgment. (ECF No. 148.) The magistrate judge allowed the parties fourteen days to object
25 (*id.* at 30), and the parties filed no objection.

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

1 analysis.

2 Accordingly, THE COURT HEREBY ORDERS that:

- 3 1. The findings and recommendations issued on August 31, 2018 (ECF No. 148), are
4 ADOPTED in full;
- 5 2. Plaintiff's case shall proceed only on these cognizable claims:
- 6 a. deliberate-indifference claims under the Eighth Amendment against
7 Lozovoy and Relevante;
 - 8 b. conditions-of-confinement claims under the Eighth Amendment against
9 Ferris and Godfrey; and
 - 10 c. retaliation claims under the First Amendment against Ferris and Godfrey
11 (ECF No. 148, at 7-8, 14-15);
- 12 3. All other claims are dismissed;
- 13 4. Plaintiff's motion for summary judgment on his claims against defendant Lozovoy
14 (ECF No. 116) is denied;
- 15 5. Plaintiff's motion for summary judgment on his claims against defendant Relevante
16 (ECF No. 117) is denied;
- 17 6. Plaintiff's motion for summary judgment on his claims against defendants Ferris
18 and Godfrey (ECF No. 125) is denied; and
- 19 7. This matter is referred back to the assigned magistrate judge for further proceedings
20 consistent with this order.

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22 IT IS SO ORDERED.

23 Dated: September 22, 2018

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