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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

SAM DRAKE,) Case No.: 1:17-cv-01500-AWI-SAB (PC)
)
Plaintiff,)
)
v.) ORDER ADOPTING FINDINGS AND
) RECOMMENDATIONS, GRANTING IN PART
) AND DENYING IN PART DEFENDANTS'
) EXHASUTION-RELATED MOTION FOR
) SUMMARY JUDGMENT
)
SCOTT KERNAN, et al.,)
)
Defendants.) (ECF Nos. 88, 105)
)

Plaintiff Sam Drake is appearing 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 February 11, 2021, the Magistrate Judge issued Findings and Recommendations recommending that Defendants’ exhaustion related motion for summary judgment be granted in part and denied in part. (ECF No. 105.) The Findings and Recommendations were served on the parties and contained notice that objections were due within twenty-one days. No objections have been filed and the time to do so has expired.

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

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Accordingly, it is HEREBY ORDERED that:

1. The Findings and Recommendations issued on February 11, 2021 (Doc. No. 105), are adopted in full;
2. Defendants' exhaustion related motion for summary judgment (Doc. No. 88) is granted in part and denied in part;
3. This action shall proceed on Plaintiff's claims against: Defendants Allison and Moak; Plaintiff's claim that in October 2016, Defendant Sexton directed Defendant Dr. McCabe to dispute all injuries that Plaintiff reported had been caused by staff, and directed custody staff not to correct the safety and enemy information in Plaintiff's prison file; Plaintiff's Eighth Amendment food contamination claim against Defendant Navarro; Plaintiff's claim First and Eighth Amendment claims against Defendant Gonzales related to his retaliatory conduct from April 6, 2015 through January 23, 2016; and
4. All other claims against all other Defendants are dismissed, without prejudice, for failure to exhaust the administrative remedies.

IT IS SO ORDERED.

Dated: March 17, 2021



SENIOR DISTRICT JUDGE