1 2 3 4 5 UNITED STATES DISTRICT COURT 6 7 EASTERN DISTRICT OF CALIFORNIA 8 9 Case No.: 1:17-cv-01617-AWI-SAB (PC) RANDALL HOUSEMAN, ORDER ADOPTING FINDINGS AND 10 Plaintiff, RECOMMENDATIONS. DISMISSING CERTAIN CLAIMS AND DEFENDANTS 11 v. [Doc. No. 17] 12 STU SHERMAN, et al., 13 Defendants. 14 15 Plaintiff Randall Houseman is a state prisoner proceeding pro se and in forma pauperis in 16 a civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States 17 Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302. 18 On October 25, 2018, the Magistrate Judge issued findings and recommendations 19 screening Plaintiff's first amended complaint. (Doc. No. 17.) The Magistrate Judge found that 20 the first amended complaint states a cognizable claim for deliberate indifference to safety in 21 violation of the Eighth Amendment against Officers Hennesay and Odle, for moving Plaintiff to 22 an upper bunk on December 28, 2015, and against Lieutenant Iverson for authoring a false 115 23 RVR report in retaliation for filing a grievance, in violation of the First Amendment. 24 Magistrate Judge recommended that all other claims and defendants be dismissed for the failure 25 to state a claim upon which relief may be granted. 26 Plaintiff was notified of the findings and recommendations and granted fourteen (14) days 27 to file any objections. (Id. at 7.) More than fourteen days have passed, and no objections were 28 filed.

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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the undersigned has conducted a *de novo* review of this case. The undersigned concludes the findings and recommendations are supported by the record and by proper analysis.

Accordingly, it is HEREBY ORDERED that:

- 1. The findings and recommendations issued on October 25, 2018 (Doc. No. 17), are adopted in full;
- 2. This action proceeds on Plaintiff's first amended complaint for deliberate indifference to safety in violation of the Eighth Amendment against Defendants E. Hennesay and J. Odle, for moving him to an upper bunk on December 28, 2015, and against Defendant A. Iverson for authoring a false 115 RVR report in retaliation for filing a grievance, in violation of the First Amendment;
- 3. Plaintiff's claims for declaratory and injunctive relief are dismissed.
- 4. All other claims and defendants are dismissed for the failure to state a claim upon which relief may be granted; and
- 5. This matter is referred back to the assigned Magistrate Judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: <u>December 18, 2018</u>

SENIOR DISTRICT JUDGE