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| 6  | UNITED STATES DISTRICT COURT  |  |
| 7  | EASTERN DISTRICT OF CALIFORNIA  |  |
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| 9  | JERRY DILLINGHAM,   | Case No. 1:18-cv-00507-AWI-SAB (PC)                          |
| 10 | Plaintiff,  | ORDER ADOPTING FINDINGS AND                                  |
| 11 | v.  | RECOMMENDATION, AND DENYING<br>DEFENDANTS' MOTION TO DISMISS |
| 12 | N. EMERSON, et al.,   | (ECF Nos. 54, 61)  |
| 13 | Defendants.   |  |
| 14 |   |  |
| 15 | Plaintiff Jerry Dillingham is a state prisoner proceeding pro se and in forma pauperis in           |  |
| 16 | this 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(b)(1)(B) and Local Rule 302.                           |  |
| 18 | On December 19, 2019, the assigned Magistrate Judge filed findings and                              |  |
| 19 | recommendation, recommending that Defendant Velasco's, Martines's, Loftin's, Emerson's,             |  |
| 20 | Marsh's, Wescoat's, and Wilson's motion to dismiss Plaintiff's Eighth Amendment claim based         |  |
| 21 | on qualified immunity be denied. (ECF No. 61.) The findings and recommendation were served          |  |
| 22 | on the parties and contained notice that any objections thereto were to be filed within thirty (30) |  |
| 23 | days after service. (Id. at 10.) No objections  | have been filed, and the time in which to do so has          |
| 24 | passed.   |  |
| 25 | In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a            |  |
| 26 | de novo review of the case. Having carefully reviewed the entire file, the Court finds that the     |  |
| 27 | Magistrate Judge's findings and recommendation are supported by the record and by proper            |  |
| 28 | analysis.   |  |
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| 1  | Accordingly, it is HEREBY ORDERED that:   |  |
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| 2  | 1. The findings and recommendations filed on December 19, 2019, (ECF No. 61), are |  |
| 3  | adopted in full;  |  |
| 4  | 2. Defendants Velasco's, Martines's, Loftin's, Emerson's, Marsh's, Wescoat's, and |  |
| 5  | Wilson's motion to dismiss Plaintiff's Eighth Amendment claim, (ECF No. 54), is   |  |
| 6  | DENIED; and   |  |
| 7  | 3. This matter is referred back to the assigned Magistrate Judge for further      |  |
| 8  | proceedings.  |  |
| 9  | IT IS SO ORDERED  |  |
| 10 |   |  |
| 11 | Dated: <u>February 20, 2020</u><br>SENIOR DISTRICT JUDGE                          |  |
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