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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 MARINO ANTONIO HERNANDEZ,

12 Plaintiff,

13 v.

14 J. MARCELO, et al.,

15 Defendants.
16

Case No. 1:19-cv-01219-NONE-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS CERTAIN CLAIMS WITH
PREJUDICE**

(Doc. 1)

14-DAY DEADLINE

17 Previously, the Court dismissed, with leave to amend, Plaintiff's official-capacity
18 deliberate indifference, Americans with Disabilities Act, and Rehabilitation Act claims. (Doc.
19 46.) The Court dismissed, without leave to amend, Plaintiff's individual-capacity ADA and RA
20 claims. (*Id.*). The Court allowed Plaintiff's individual-capacity deliberate indifference claims to
21 proceed. (*Id.*)

22 On April 14, 2021, Plaintiff filed a notice that he wishes to proceed only on the
23 individual-capacity deliberate indifference claims and to dismiss all other claims with prejudice.
24 (Doc. 48.) Accordingly, for the reasons set forth in the findings and recommendations (Doc. 35)
25 and the order adopting the findings and recommendations (Doc. 46), the Court RECOMMENDS
26 that Plaintiff's official-capacity deliberate indifference, ADA, and RA claims be DISMISSED
27 with prejudice.

28 These Findings and Recommendations will be submitted to the United States District

1 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of
2 service of these Findings and Recommendations, Plaintiff may file written objections with the
3 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and
4 Recommendations.” Failure to file objections within the specified time may result in waiver of
5 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
6 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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8 IT IS SO ORDERED.

9 Dated: April 27, 2021

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE