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| 8  | UNITED STATES DISTRICT COURT  |  |
| 9  | EASTERN DISTRICT OF CALIFORNIA  |  |
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| 11 | JOE NINO,   | Case No. 1:20-cv-01722-ADA-CDB (PC)                          |
| 12 | Plaintiff,  | ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO GRANT IN PART |
| 13 | v.  | AND DENY IN PART DEFENDANT SULLIVAN'S MOTION TO DISMISS      |
| 14 | J. MUNOZ, et al.,   | (ECF No. 44)   |
| 15 | Defendants.   | (Del 110. 11)  |
| 16 |   |  |
| 17 | Plaintiff Joe Nino ("Plaintiff"), appearing through counsel, brought this civil rights actio          |  |
| 18 | pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuan    |  |
| 19 | to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.   |  |
| 20 | On February 21, 2023, the assigned Magistrate Judge issued findings and recommendations               |  |
| 21 | recommending that Defendant Sullivan's motion to dismiss be granted in part and denied in par         |  |
| 22 | (See ECF No. 44.) Specifically, the Magistrate Judge recommended the motion be granted in pa          |  |
| 23 | for Plaintiff's failure to state a claim alleging supervisory liability against Defendant Sullivan fo |  |
| 24 | Eighth Amendment violations. (Id. at 18.) The Magistrate Judge further recommended that               |  |
| 25 | Plaintiff be granted leave to file a fourth amended complaint to cure the deficiencies identified in  |  |
| 26 | his claim against Defendant Sullivan, assuming he could do so in good faith. (Id. at 18-19.) Lastly   |  |

the Magistrate Judge provided 14 days within which any party could file objections to the findings

and recommendations. (Id. at 19.) More than 14 days have passed, and no party has filed objections

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to the findings and recommendations. In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de novo review of this case. Having carefully reviewed the file, the Court finds the findings and recommendations to be supported by the record and proper analysis. Accordingly, 1. The findings and recommendations issued on February 21, 2023, (ECF No. 44), are ADOPTED in full; 2. Defendant Sullivan's motion to dismiss, (ECF No. 38), is GRANTED in PART and DENIED in PART; 3. Plaintiff is GRANTED leave to amend to file a fourth amended complaint. Plaintiff SHALL file his fourth amended complaint within 30 days of the date of service of this order; and 4. The matter is referred back to the Magistrate Judge for further proceedings. IT IS SO ORDERED. Dated: May 31, 2023