1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 Case No.: 1:22-cv-00455-JLT-CDB (PC) 11 DAVID WAYNE WILSON, 12 <u>AMENDED</u> ORDER ADOPTING FINDINGS Plaintiff. AND RECOMMENDATIONS TO DISMISS CERTAIN CLAIMS AND DEFENDANTS 13 v. FOLLOWING SCREENING OF PLAINTIFF'S FIRST AMENDED COMPLAINT 14 LURA MERRITT, et al., (Doc. 34) 15 Defendants. 16 David Wayne Wilson seeks to hold the defendants liable for civil rights violations 17 pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge 18 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 19 The magistrate judge recommended this action proceed only on Plaintiff's Eighth 20 Amendment deliberate indifference to serious medical needs claims against Defendants Fishburn, 21 Merritt and Carlson, in their individual capacities; First Amendment retaliation claim against 22 Defendant Merritt, in her individual capacity; Fourteenth Amendment equal protection clause 23 claim against Defendant Carlson, in her individual capacity; state law equal protection clause 24 claim against Defendant Carlson, in her individual capacity; and that the remaining claims and 25 defendants to be dismissed. (Doc. 34.) The magistrate judge advised Plaintiff that the "failure to 26 file objections within the specified time may result in waiver of his rights on appeal." (*Id.* at 18, 27 citing Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014); Baxter v. Sullivan, 923 F.2d 28

1	1391, 1394 (9th Cir. 1991). Plaintiff failed to file objections by the relevant deadline, and the
2	Court adopted the findings and recommendations on December 12, 2023. (Doc. 35.) However,
3	Plaintiff submitted objections for mailing a few days late, on December 10, 2023. (Doc. 38, filed
4	Dec. 13, 2023.) In an abundance of caution, the Court has considered the objections as though
5	they had been timely filed and performed a renewed de novo review pursuant to 28 U.S.C.
6	§ 636(b)(1)(C). Having carefully reviewed the matter anew, including Plaintiff's objections, the
7	Court again concludes the Findings and Recommendations to be supported by the record and
8	proper analysis. Accordingly, the Court <b>ORDERS</b> :
9	1. The Findings and Recommendations issued November 21, 2023 (Doc. 34) are
10	ADOPTED in full.
11	2. This action <b>PROCEEDS</b> on Plaintiff's Eighth Amendment deliberate indifference to
12	serious medical needs claims against Defendants Fishburn, Merritt and Carlson, in
13	their individual capacities, First Amendment retaliation claim against Defendant
14	Merritt, in her individual capacity, Fourteenth Amendment equal protection clause
15	claim against Defendant Carlson, in her individual capacity, and state law equal
16	protection clause claim against Defendant Carlson, in her individual capacity, pursuan
17	to 42 U.S.C. § 1983.
18	3. The following Defendants are <b>DISMISSED</b> from this action:
19	a. Public Entity of CDCR in Corcoran Calif
20	b. Jessia Huffman
21	c. Registered Nurses at SATF
22	d. S. Thomas
23	e. E. Johnson
24	f. Melisa Fritz
25	g. Godwin Ugwueze
26	h. Clarence Cryer, Jr.
27	i. California Department of Corrections and Rehabilitation
28	<ul> <li>j. Public Entity State Administration of Prisons in Sacramento CA</li> </ul>
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1	4. The remaining claims in Plaintiff's first amended complaint are <b>DISMISSED</b> .
2	5. This matter is referred to the assigned magistrate judge for further proceedings.
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4	IT IS SO ORDERED.
5	Dated: December 19, 2023  UNITED STATES DISTRICT JUD
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