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2. Defendants' October 5, 2015 motion for summary judgment (ECF No. 88) is granted in part and denied in part as follows:

- a. Defendants' motion for summary judgement on Plaintiff's Eighth Amendment claims regarding the denial of outdoor exercise and adequate food is denied;
- b. Defendants' motion for summary judgment on Plaintiff's Eighth Amendment claim for denial of personal hygiene items and First Amendment claims is granted;
- c. Defendants' motion for summary judgment with respect to the defense of qualified immunity is denied;
- d. Plaintiff's Fourteenth Amendment equal protection and due process claims, his state law claims brought under California Penal Code § 825 and California Code of Regulations Title 15, § 3157(a)-(c), and Plaintiff's Eighth Amendment claim challenging the banning of tobacco from CSP-Sacramento are dismissed for failure to state a cognizable claim; and
- e. The case shall proceed solely on Plaintiff's Eighth Amendment claims regarding denial of outdoor exercise and adequate food.

Dated: February 28, 2017



Troy L. Nunley
United States District Judge