UNITED STATES DISTRICT COURT	
FOR THE EASTERN DISTRICT OF CALIFORNIA	
NALD FOSTER,	No. 2:10-cv-0929 TLN AC P
Plaintiff,	
v.	<u>ORDER</u>
TATTI, et al.,	
Defendants.	
Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief	
under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to	
J.S.C. § 636(b)(1)(B) and Local Rule 302	
On September 23, 2013, the magistrat	e judge filed findings and recommendations herein
which were served on all parties and which contained notice to all parties that any objections to	
findings and recommendations were to be	e filed within twenty-one days. Defendants were
ted an extension of time to file objections	s to the findings and recommendations and have
e so.	
In accordance with the provisions of 2	28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
court has conducted a <u>de novo</u> review of this case. Having carefully reviewed the entire file, the	
t finds the findings and recommendations	s to be supported by the record and by proper
ysis.	
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	FOR THE EASTERN NALD FOSTER, Plaintiff, v. TATTI, et al., Defendants. Plaintiff, a state prisoner proceeding p er 42 U.S.C. § 1983. The matter was refe U.S.C. § 636(b)(1)(B) and Local Rule 302 On September 23, 2013, the magistrat ch were served on all parties and which co indings and recommendations were to be ted an extension of time to file objections e so. In accordance with the provisions of 2 t has conducted a <u>de novo</u> review of this t finds the findings and recommendations

1	Accordingly, IT IS HEREBY ORDERED that:
2	1. The findings and recommendations filed September 23, 2013 are adopted in full;
3	2. Defendants' motion to dismiss for failure to exhaust administrative remedies (ECF No.
4	53) is denied;
5	3. Defendants' motion for summary judgment (ECF No. 53) is denied;
6	4. Plaintiff's cross-motion for summary judgment (ECF No. 62) is granted in part, in the
7	form of an order pursuant to Fed. R. Civ. P. 56(g) that the objective component of his Eighth
8	Amendment claim (the seriousness of the deprivation) is not genuinely in dispute and shall be
9	treated as established in plaintiff's favor;
10	5. Plaintiff's cross-motion for summary judgment (ECF No. 62) is denied in all other
11	respects; and
12	6. This matter shall proceed to trial against defendants Wright, Kraft, Davey and Statti on
13	plaintiff's Eighth Amendment claims.
14	Dated: March 6, 2014
15 16 17	Troy L. Nunley
18	United States District Judge
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