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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 ERIC ALSTON,

12 Plaintiff,

13 v.

14 COUNTY OF SACRAMENTO
15 SHERIFF'S DEPARTMENT et al.,

16 Defendants.

No. 2:13-cv-1488 KJM KJN P (TEMP)

ORDER

17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided
19 by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On October 30, 2015, the magistrate judge filed findings and recommendations which
21 were served on plaintiff and which contained notice to plaintiff that any objections to the findings
22 and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to
23 the findings and recommendations.

24 The court presumes that any findings of fact are correct. *See Orand v. United States*, 602
25 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.
26 *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having reviewed
27 the file, the court finds the findings and recommendations to be supported by the record and by
28 the proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed October 30, 2015, are adopted in full;

3 2. This case shall proceed on plaintiff's deliberate indifference and negligence claims
4 against defendants County of Sacramento, Jones, Fitch, Douglas, Steed, Harrison, Bacoeh,
5 Gandhi, Grgich, Carmello, Doe 12, and Doe 13 in connection with their refusal to adhere to his
6 medical "recommendation" or chrono stating he needed to be housed on a lower tier and avoid
7 climbing stairs;

8 3. Plaintiff's claims under the Americans with Disabilities Act are dismissed for failure to
9 state a claim;

10 4. The court declines to exercise supplemental jurisdiction over any state law claims
11 except as stated herein; and

12 5. This matter is referred back to the assigned Magistrate Judge for service of the second
13 amended complaint on defendants as provided herein.

14 DATED: January 6, 2016

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17 UNITED STATES DISTRICT JUDGE
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