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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONNELL BOYCE,

 Plaintiff,

 v.

MICHAEL FOX, et al.,

 Defendants.

No. 2:14-cv-1743 KJM KJN P

ORDER

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 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 30, 2017, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

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

1 Accordingly, IT IS HEREBY ORDERED that the findings and recommendations filed
2 January 30, 2017, are adopted in full and defendants' motion to dismiss is granted in part and
3 denied in part, as follows:

4 1. Defendants' motion to dismiss plaintiff's claims as unexhausted is denied without
5 prejudice;

6 2. Plaintiff's claims that defendants Fox and Does 1 - 5 failed to implement policies and
7 procedures to warn him about, screen for, or protect plaintiff from Valley Fever upon his
8 placement and housing at DVI in 2011 to 2012 are dismissed, and, in the alternative, defendants
9 Fox and Does 1 - 5 are granted qualified immunity as to such claims;

10 3. Defendant Kim is dismissed from this action based on plaintiff's failure to include any
11 charging allegations against defendant Kim;

12 4. Plaintiff's claims against defendant Ogbodo are dismissed without prejudice; and

13 5. Defendant Dr. Wong's motion to dismiss is denied, and Dr. Wong is required to file an
14 answer within fourteen days of the filed date of this order.

15 DATED: March 6, 2017

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19 UNITED STATES DISTRICT JUDGE
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