UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

COREY JEROME ELDER,

Plaintiff,

v.

SILVA, et al.,

Defendants.

No. 2:16-cv-01925-TLN-DMC

ORDER

Plaintiff, a prisoner proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On March 23, 2021, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within the time specified therein. No objections to the findings and recommendations have been filed.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and the Magistrate Judge's analysis.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed March 23, 2021, are ADOPTED IN FULL;

2. Defendants' motion for summary judgment (ECF No. 34) is GRANTED in part and DENIED in part as follows:

   a. Defendants' motion is granted as to the merits of Plaintiff's claims against Defendants Silva, Speers, and Ramsey, as Plaintiff cannot prevail on the merits as to the claims against these Defendants;

   b. Defendants' motion is denied as to the merits of Plaintiff's claims against Defendant Whitcome;

   c. Defendants' motion is granted as to Plaintiff's claims against Defendants Whitcome and Brackett, as well as the portion of his claim against Defendant Joksch based on denial of a sack lunch, because such claims are unexhausted;

   d. Defendants' motion as to qualified immunity is denied;

   e. Defendants' motion is granted as to Defendant Hogan for failure to state a claim; and

3. This action will proceed on the following claims against Defendant Joksch:

   a. Plaintiff's Eighth Amendment claim against Defendant Joksch based on the cell move ordered on September 8, 2014; and

   b. Plaintiff's First Amendment retaliation claim against Defendant Joksch based on the cell move ordered on September 8, 2014.

DATED: May 3, 2021

Troy L. Nunley
United States District Judge