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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLARENCE HOWARD,
Plaintiff,

CASE NO. 1:05-cv-00906-AWI-GBC (PC)

v.

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

GRADTILLO, et al.,
Defendants.

ORDER DENYING DEFENDANTS’
MOTION FOR JUDGMENT ON THE
PLEADINGS

(Docs. 36, 44)

Plaintiff Clarence Howard (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s amended complaint, filed June 22, 2009, against Defendants Bennett, Avila and Jones (“Defendants”) for excessive force on April 3, 2003, in violation of the Eighth Amendment. (Doc. 22, First Amd. Comp.; Doc. 27, a Cog Claim Ord.). 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 September 1, 2010, Defendants filed a motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure. (Doc. 36).

On January 7, 2011, the Magistrate Judge filed a Findings and Recommendations herein which was served on the parties and which contained notice that any objections to the Findings and Recommendations were to be filed within thirty days. Neither party has submitted objections to the

1 Findings and Recommendations.

2 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de*
3 *novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and
4 Recommendations to be supported by the record and by proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The Findings and Recommendations, filed January 7, 2011, is adopted in full; and
- 7 2. Defendants motion for judgment of the pleadings, filed September 1, 2010, is
8 DENIED.

9 IT IS SO ORDERED.

10 Dated: March 16, 2011


11 CHIEF UNITED STATES DISTRICT JUDGE

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