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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT GONZALES SANEZ,
Plaintiff,
vs.
CHAVEZ, et al.,
Defendants.

Case No. 1:11-cv-1872-AWI-SKO (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DENYING
PLAINTIFF'S AND DEFENDANT'S
MOTIONS FOR SUMMARY
JUDGMENT AND DENYING
DEFENDANT'S REQUEST FOR
ADDITIONAL TIME**
(Docs. 32, 36, 55, 56, 57, 59)

Plaintiff, Robert Gonzales Saenz, is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 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. Plaintiff is proceeding in this action against Defendant, Correctional Officer B. Lacey, on his claims in the Second Amended Complaint (Doc. 15) for use of excessive physical force on March 12, 2010, in violation of the Eighth Amendment; and retaliation, in violation of the First Amendment, via the use of physical force on March 12, 2010, and cell searches which took place on March 13, 2010 and August 7, 2010, with concomitant property confiscation. (*See* Doc. 16.) Both Plaintiff and Defendant filed motions for summary judgment. (Docs. 32, 36.) On February 24, 2016, the Magistrate Judge issued a Findings and Recommendations to deny both motions which was served that same date and gave twenty-one days for the parties to file objections. (Doc. 57.) More than the allowed time has lapsed and Defendant did not file any

1 objections. Plaintiff filed timely objections in which he repeated and reemphasized the arguments
2 in his motion to strike Defendant's declaration in support of the defense motion. (Doc. 58.)
3 Defendant filed a motion for a 10-day extension of time to file a reply to Plaintiff's objections.
4 (Doc. 59).

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

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. The Findings and Recommendations, issued on February 24, 2016 (Doc. 57), is
10 adopted in full;
- 11 2. Plaintiff's motion for summary judgment, filed on July 20, 2015 (Doc. 32), is denied;
- 12 3. Defendant's motion for summary judgment, filed on July 20, 2015 (Doc. 36), is
13 denied;
- 14 4. Defendant's motion for additional time to reply to Plaintiff's objections (Doc. No. 59)
15 is DENIED as moot; and
- 16 5. Within twenty-one (21) days of the date of service of this order, the parties shall file
17 statements as to whether a court supervised settlement conference would be beneficial.

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19 IT IS SO ORDERED.

20 Dated: March 25, 2016


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SENIOR DISTRICT JUDGE