

1 did not state any other claims for relief against any other individuals. (ECF No. 31.) The Court
2 ordered Plaintiff to either file a third amended complaint curing the deficiencies identified or notify
3 the Court that he was willing to proceed only on one of the claims found to be cognizable. (Id.) On
4 January 12, 2016, Plaintiff filed a notice stating he does not intend to amend and he is willing to
5 proceed only on his cognizable Eighth Amendment claims for excessive force against Defendant
6 Redding and failure to protect against Defendant Blanco. (ECF No. 37.) Plaintiff additionally states
7 that he wishes to proceed against the “other sixteen officers” who allegedly used excessive force
8 against Plaintiff. However, Plaintiff is advised that the Court did not and the second amended
9 complaint does not state a cognizable excessive force claim against the unidentified “other sixteen
10 officers.” Therefore, Plaintiff may not proceed against the other sixteen officers referenced in his
11 notice.

12 **II.**
13 **RECOMMENDATIONS**

14 Accordingly, it is HEREBY RECOMMENDED that:

- 15 1. This action proceed on Plaintiff’s claim under the Fourteenth Amendment against
16 Defendant Redding for excessive force, and against Defendant Blanco for failure to
17 protect on January 21, 2011;
- 18 2. All other claims and Defendants be DISMISSED from the action for failure to state a
19 cognizable claim for relief; and
- 20 3. The matter be referred back to the undersigned for initiation of service of process as to
21 Defendants Redding and Blanco.

22 These Findings and Recommendations will be submitted to the United States District Judge
23 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **thirty (30) days**
24 after being served with these Findings and Recommendations, Plaintiff may file written objections
25 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and
26 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may

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result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: January 13, 2016


UNITED STATES MAGISTRATE JUDGE