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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JESSIE JEFFRIES,	}	Case No. CV 12-1351 R(JC)
Plaintiff,	}	ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE
v.	}	
K. FIELDS, et al.,	}	
Defendant(s).	}	

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Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint, all documents filed in connection with the Motion to Dismiss Portions of First Amended Complaint (“Defendants’ Motion”) filed/joined by defendants K. Fields (“Fields”), C. Grigg (“Grigg”), L. VanSandt (“VanSandt”), G. Smith (“Smith”) and the United States of America (“United States”) (collectively “defendants”), and all of the records herein, including the attached Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”). The Court approves and accepts the Report and Recommendation. The Court herein refers to the claims in the First Amended Petition by the same shorthand terms used and defined by the Magistrate Judge in the Report and Recommendation.

1 IT IS HEREBY ORDERED: (1) Claim 3 is dismissed as against defendant  
2 Fields and is deemed a Federal Tort Claims Act (“FTCA”) claim against the United  
3 States; (2) Defendants’ Motion is granted in part and denied in part, specifically:  
4 (a) Defendants’ Motion is granted to the extent it is predicated upon plaintiff’s  
5 failure to exhaust his administrative remedies as to Claim 1a1 against defendant  
6 Grigg and such claim is dismissed without prejudice; (b) Defendants’ Motion is  
7 denied to the extent it is predicated upon plaintiff’s failure to exhaust his  
8 administrative remedies as to Claim 1d2b against defendant Smith;  
9 (c) Defendants’ Motion is granted to the extent it seeks dismissal of the following  
10 claims for failure to state a claim and such claims are dismissed with leave to  
11 amend: Claim 1a2 against defendant Grigg, Claim 1c against defendant VanSandt,  
12 and Claim 1d against defendant Smith; (d) Defendants’ Motion is denied to the  
13 extent it seeks dismissal of Claim 1b against defendant Fields for failure to state a  
14 claim; and (e) Defendants’ Motion is granted to the extent it seeks dismissal of  
15 Claim 3 without prejudice for lack of subject matter jurisdiction;  
16 (3) plaintiff, to the extent he has been afforded leave to amend and can cure the  
17 deficiencies identified herein, shall file any Second Amended Complaint within  
18 twenty (20) days;<sup>1</sup> (4) plaintiff is advised that the failure timely to file a Second  
19 Amended Complaint will result in this action proceeding solely on the remaining  
20 claims as against the remaining defendant (*i.e.*, the First Amendment retaliation  
21 and the Eighth Amendment excessive force claims – Claims 1b and 2 – against  
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24 <sup>1</sup>Any Second Amended Complaint must: (a) be labeled: “Second Amended Complaint;”  
25 (b) be complete in and of itself and not refer in any manner to the original Complaint or the First  
26 Amended Complaint; (c) contain a “short and plain” statement of the claims for relief. See Fed.  
27 R. Civ. P. 8(a); (d) make each allegation “simple, concise and direct.” Fed. R. Civ. P. 8(d)(1); (e)  
28 make allegations in numbered paragraphs, “each limited as far as practicable to a single set of  
circumstances.” Fed. R. Civ. P. 10(b); (f) set forth clearly the sequence of events giving rise to  
the claim(s) for relief; (g) not include unexhausted claims; and (h) not add defendants or claims  
without leave of court.

1 defendant Fields) absent further order of the Court;<sup>2</sup> and (5) the Clerk shall provide  
2 plaintiff with a Central District of California Civil Rights Complaint Form to  
3 facilitate plaintiff's filing of a Second Amended Complaint if he elects to proceed  
4 in that fashion.

5 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and  
6 the Report and Recommendation on plaintiff and counsel for defendants.

7 IT IS SO ORDERED

8 DATED: March 10, 2014



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11 HONORABLE MANUEL L. REAL  
12 UNITED STATES DISTRICT JUDGE

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27 <sup>2</sup>In the event plaintiff elects not to file a Second Amended Complaint and to proceed only  
28 on the remaining claims – the First Amendment retaliation and Eighth Amendment excessive  
force claims against defendant Fields (Claims 1b and 2) – he may expedite matters by filing a  
Notice of Intent Not to File Second Amended Complaint within twenty (20) days.