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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MONA SALCIDA MURILLO,  
formerly known as Ramon Murillo,

Plaintiff,

v.

D. GODFREY, et al.,

Defendants.

Case No. 2:18-cv-02342-JGB-JC

ORDER ACCEPTING FINDINGS,  
CONCLUSIONS, AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE

[DOCKET NOS. 100, 110]

The Court has conducted the review required by 28 U.S.C. § 636 and accepts the findings, conclusions and recommendation of the Magistrate Judge reflected in the November 30, 2023 Report and Recommendation of United States Magistrate Judge (“Report and Recommendation”), but – in light of Plaintiff’s filing of “Plaintiff[’s] Intent to Proceed Solely on Claims Not Dismiss[ed] by the Magistrate Judge” (“Notice of Intent”) and the contents thereof – modifies this Order Accepting the Report and Recommendation accordingly:

IT IS HEREBY ORDERED:

1. Plaintiff’s Motion for Permission to File Surreply (Docket No. 110) is granted.

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- 1           2.     Plaintiff’s Request for Appointment of Counsel (Docket No. 106) is  
2           denied without prejudice.
- 3           3.     Plaintiff’s Motion for Judicial Notice (Docket No 106) is granted as to  
4           Exhibits 1-9 and denied as to Exhibits 10-15.
- 5           4.     Claim Eight and all claims against Defendants in their official  
6           capacities in the Third Amended Complaint are deemed withdrawn  
7           and dismissed.
- 8           5.     Defendants’ Motion to Dismiss Portions of Plaintiff’s Third Amended  
9           Complaint and for Severance of Defendant Romero (“Motion to  
10           Dismiss”) (Docket No. 100) is granted in part and denied part as  
11           follows:
- 12           a.     Claim Three as against defendant C. Ramirez is dismissed  
13           without prejudice;<sup>1</sup>
- 14           b.     Claim Four, to the extent predicated on Eighth Amendment  
15           deliberate indifference, is dismissed without prejudice;
- 16           c.     Claim Five is dismissed without prejudice;
- 17           d.     Claim Seven as against defendants Wingfield and Corral is  
18           dismissed without prejudice;
- 19           e.     Claim Seven as against defendant Davis, to the extent

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21           <sup>1</sup>As explained in the Report and Recommendation, there has been some ambiguity in the  
22           record as to whether Plaintiff intended to continue to proceed with this action as against  
23           Defendant C. Ramirez, who is named as a Defendant in only Claim Three, but who has not been  
24           served and has not appeared. (See Report and Recommendation at 9 n.12; Report and  
25           Recommendation at 20 n.16). Allowing for the possibility that Plaintiff intended to proceed  
26           against such Defendant, the Report and Recommendation recommended dismissal of only the  
27           Eighth Amendment deliberate indifference predicate for Claim Three as against C. Ramirez, but  
28           did not recommend dismissal of the First Amendment retaliation and Eighth Amendment  
          excessive force predicates for Claim Three as against him. However, in light of the contents of  
          Plaintiff’s Notice of Intent – which, notwithstanding the foregoing – omits reference to  
          C. Ramirez as a Defendant in Claim Three and otherwise, the Court construes this to mean that  
          Plaintiff does not wish to proceed as against C. Ramirez, and accordingly dismisses the entirety  
          of Claim Three as against such Defendant without prejudice.

1 predicated on Eighth Amendment deliberative indifference, is  
2 dismissed without prejudice; and

3 f. the Motion to Dismiss is otherwise denied.

4 6. In light of the substance of Plaintiff's Notice of Intent, this action will  
5 proceed only on the following claims against the following six  
6 Defendants as specified below: Sgt. D. Godfrey,<sup>2</sup> Correctional Officer  
7 (C/O) Wingfield (erroneously sued as Winfield or Windfield), C/O  
8 Corral,<sup>3</sup> C/O N. Romero, Lieutenant Varella (erroneously sued as  
9 "Verla" or "Valenero"), and Sergeant Davis, and all other claims,  
10 predicates, and Defendants are dismissed from this action without  
11 prejudice:

12 a. Claim One – a First Amendment retaliation claim against  
13 Defendants Godfrey and Wingfield;

14 b. Claim Two – Eighth Amendment Excessive Force, Eighth  
15 Amendment Deliberate Indifference, and First Amendment  
16 Retaliation predicates against Defendants Godfrey and  
17 Wingfield;

18 c. Claim Three – Eighth Amendment Excessive Force, Eighth  
19 Amendment Deliberate Indifference, and First Amendment  
20 Retaliation predicates against Defendant Corral;

21 d. Claim Four – First Amendment Retaliation and Eighth  
22 Amendment Excessive Force predicates against N. Romero;

23 e. Claim Six – a First Amendment Retaliation claim against  
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25 <sup>2</sup>K. Godfrey/the Estate of D. Godfrey has appeared for Sgt. Godfrey, who is deceased.  
26 (See Docket No. 64).

27 <sup>3</sup>Although Defendant Corral's last name is Ramirez, he has been referred to as Defendant  
28 Corral to avoid confusion with Defendant C. Ramirez, a separate Defendant. (See Report and  
Recommendation at 9 n.12).

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Defendant Varela; and

f. Claim Seven – First Amendment Retaliation and Eighth Amendment excessive force predicates against Defendant Davis.

7. The remaining Defendants shall file an Answer to the remaining portions of the Third Amended Complaint within fourteen (14) days.

IT IS FURTHER ORDERED that the Clerk serve copies of this Order on Plaintiff and counsel for Defendants.

IT IS SO ORDERED

DATED: April 9, 2024



HONORABLE JESUS G. BERNAL  
UNITED STATES DISTRICT JUDGE