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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDWARD DEMERSON,

CASE NO. 1:06-cv-00250-LJO-SMS PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
CERTAIN CLAIMS AND DEFENDANTS
FROM SECOND AMENDED COMPLAINT,
AND REFERRING MATTER BACK TO
MAGISTRATE JUDGE TO INITIATE
SERVICE OF PROCESS

v.

WARDEN OF SATF, et al.,

Defendants.

(Docs. 56 and 66)

Plaintiff Edward Demerson, a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 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.

On September 1, 2010, the Magistrate Judge screened Plaintiff's [second amended complaint](#) and issued a [findings and recommendations](#) recommended dismissal of certain claims and parties. After obtaining an extension of time, Plaintiff filed a timely [objection](#) on November 1, 2010.¹

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

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¹ Entitled as a motion for reconsideration. Disagreement with findings and recommendations is voiced via objections, and Plaintiff's filing shall be treated as such.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendations, filed September 1, 2010, is adopted in full;
- 3 2. This action shall proceed on Plaintiff's second amended complaint, filed June 2,
4 2009, against Defendants Curtiss, Renya, and Morgan on Plaintiff's excessive force
5 claim; and against Defendants Curtiss, Renya, and Reynoso on Plaintiff's failure-to-
6 protect claim;
- 7 3. Plaintiff's due process, conspiracy, retaliation, and medical care claims are
8 dismissed, with prejudice, for failure to state a claim;
- 9 4. Defendants Woodford, Grannis, Adams, Clark, Hense, Diaz, Wan, Alva, Gallagher,
10 Pineda, Odle, Davis, Munoz, Padilla, and Hernandez are dismissed based on
11 Plaintiff's failure to state any claims against them; and
- 12 5. This matter is referred back to the Magistrate Judge to initiate service of process
13 proceedings.
- 14

15 IT IS SO ORDERED.

16 **Dated:** November 3, 2010

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE