



1 to the Court that he does not wish to file a second amended complaint and only wishes to proceed against  
2 defendant Hinojosa on the claim for excessive force under the Due Process Clause. (Doc. 18.)

3 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 4 1. This action proceed only against Officer Hinojosa, for excessive force under the Due  
5 Process Clause;
- 6 2. All remaining claims and defendants be dismissed from this action;
- 7 3. Plaintiff's claims against defendants Kern County Sheriff Donny Youngblood, Officer  
8 P. Davis, Deputy Sheriff Sergeant Mann, and District Attorney Edward R. Jagels be  
9 dismissed from this action based on Plaintiff's failure to state any claims upon which  
10 relief may be granted against them; and
- 11 4. Plaintiff's claims for equal protection, supervisory liability, and malicious prosecution  
12 be dismissed for failure to state a claim upon which relief may be granted under section  
13 1983.

14 These Findings and Recommendations will be submitted to the United States District Judge  
15 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30) days  
16 after being served with these Findings and Recommendations, Plaintiff may file written objections with  
17 the Court. The document should be captioned "Objections to Magistrate Judge's Findings and  
18 Recommendations." Plaintiff is advised that failure to file objections within the specified time may  
19 waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20  
21 IT IS SO ORDERED.

22 **Dated: September 3, 2009**

**/s/ Gary S. Austin**  
23 UNITED STATES MAGISTRATE JUDGE