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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE E. JACOBS, IV,

Plaintiff,

v.

JEANNE WOODFORD, ET AL.,

Defendants.

Case No. 1:08-cv-00369-AWI-JLT (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DENYING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT.**

(Doc. 55).

Plaintiff George E. Jacobs IV, ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. In this action, Plaintiff alleges the following causes of action: 1) Retaliation against Defendants David, Masiel, and Martinez; 2) Excessive Force against David and Masiel; and 3) Deliberate Indifference to Medical Need against Martinez. (Doc. 7). Defendants filed a motion for summary judgment on April 30, 2012. The matter was referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rules 302 and 303.

On September 6, 2012, Magistrate Judge Thurston issued Findings and Recommendations denying Defendants' motion for summary judgment. (Doc. 55). Given that Defendants' Reply to Plaintiff's Opposition to their motion acknowledged that Plaintiff had presented sufficient evidence to establish a genuine issue of material fact (for purposes of the motion), the Magistrate

1 Judge limited the findings and recommendations to Plaintiff's Retaliation claims against Masiel
2 and Martinez, his excessive force claim against Masiel, and his deliberate indifference to medical
3 need claim against Martinez. (Doc. 55).

4 With regard to Plaintiff's Retaliation and Eighth Amendment medical need claims against
5 Masiel and Martinez, respectively, the Findings and Recommendations cited evidence presented
6 by Plaintiff which raised genuine issues of material fact. (Doc. 55 at 5-12). Based upon the
7 evidence presented, and the two completely different versions of events described by the parties,
8 the Magistrate Judge properly recommended that Masiel's and Martinez' motion for summary
9 judgment be denied. Given the factual disputes, the Magistrate Judge likewise found that
10 qualified immunity did not apply to Defendants' actions. (Doc. 55 at 12).

11 The parties were advised in the September 6, 2012 Findings and Recommendations that
12 they had 14 days to object. (Doc. 55). Despite the Court's warning, neither party submitted
13 objections to the Magistrate Judge's findings and recommendations.

14 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Britt v. Simi Valley
15 United School Dist., 708 F.2d 452, 454 (9th Cir. 1983), the Court has conducted a de novo review
16 of the case. Having carefully, reviewed the entire file, the Court finds that the Findings and
17 Recommendations are supported by the record and by proper analysis.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Findings and Recommendations filed September 6, 2012 are **ADOPTED IN**
20 **FULL**; and
- 21 2. The Motion for Summary Judgment filed by Defendants David, Masiel, and Martinez
22 is **DENIED**.

23
24 IT IS SO ORDERED.

25 Dated: October 6, 2012

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28 CHIEF UNITED STATES DISTRICT JUDGE