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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAWWAAD HASAN,)	NO. 1:08-cv-00381 GSA- PC
)	
Plaintiff,)	ORDER DISMISSING CLAIMS AND
)	DEFENDANTS
v.)	
)	
B. JOHNSON, M.D., et al.,)	
)	
Defendants.)	
)	
)	
)	
	/	

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1).

On September 30, 2010, the Court issued an order finding that the complaint states a cognizable claim against Defendant Correctional Officer Johnson for excessive force in violation of the Eighth Amendment. Plaintiff also sets forth a state law claim that Defendant Johnson's conduct violated Article I, section 7 of the California Constitution. Plaintiff failed to state a cognizable supervisory liability claim or any claims against Doe Defendants. The Court ordered Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on the claims found to be cognizable. On October 12, 2010, Plaintiff notified the Court that he does not wish to amend and is willing to proceed on the claims found cognizable. Based on Plaintiff's notice, this order now issues. See Noll v. Carlson, 809 F. 2d 1446, 1448 (9th Cir. 1987) (prisoner must be given notice of deficiencies and opportunity to amend prior to dismissing for failure to state

1 a claim).

2 Accordingly, it is HEREBY ORDERED that:

- 3 1. This action proceeds on Plaintiff's complaint, filed March 17, 2008, against
- 4 Defendant B. Johnson on Plaintiff's claim of excessive force and state law claim ;
- 5 2. Plaintiff's supervisory liability claim is dismissed for failure to state a claim; and
- 6 3. The Doe Defendants are dismissed based on Plaintiff's failure to state any claims
- 7 against them.

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11 IT IS SO ORDERED.

12 **Dated: October 18, 2010**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE