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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAQUES FEARENCE,
Plaintiff,
vs.
L. L. SHULTEIS, et al.,
Defendants.

1:08-cv-00615-LJO-GSA-PC
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. 45.)
ORDER FOR THIS ACTION TO
PROCEED ON PLAINTIFF'S SECOND
AMENDED COMPLAINT ON CLAIMS
FOUND COGNIZABLE BY THE COURT,
AND DISMISSING ALL OTHER CLAIMS
ORDER FOR DEFENDANTS TO FILE
ANSWER TO SECOND AMENDED
COMPLAINT WITHIN THIRTY DAYS

Jacques Fearance ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action pursuant to 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 April 1, 2013, the court entered findings and recommendations, recommending that this action proceed only on the claims found cognizable by the court in the Second Amended Complaint, and that all other claims be dismissed from this action based on Plaintiff's failure to state a claim. (Doc. 45.) On May 10, 2013, the parties were provided an opportunity to file objections to the findings and recommendations within thirty days. (Doc. 47.) To date, no objections have been filed.

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
2 Court has conducted a de novo review of this case. Having carefully reviewed the entire file,
3 the Court finds the findings and recommendations to be supported by the record and proper
4 analysis.

5 **III. CONCLUSION**

6 Accordingly, THE COURT HEREBY ORDERS that:

- 7 1. The findings and recommendations issued by the Magistrate Judge on April 1,
8 2013, are ADOPTED in full;
- 9 2. This action now proceeds on Plaintiff's Second Amended Complaint, filed on
10 March 25, 2013, against defendants Hopkins and Busby for use of excessive
11 force; against defendants Hopkins, Davis, Duffy, and John Doe for failure to
12 protect Plaintiff; and against defendants Hopkins, Busby, Davis, Duffy, and
13 John Doe for conspiracy to use excessive force against Plaintiff, for damages
14 only;
- 15 3. All other claims are dismissed from this action;
- 16 4. Plaintiff's claims for verbal harassment and injunctive relief are dismissed from
17 this action; and
- 18 5. Defendants are required to file an Answer to the Second Amended Complaint
19 within thirty days of the date of service of this order.

20
21 IT IS SO ORDERED.

22
23 Dated: June 25, 2013

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