UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JACQUES FEARANCE,

Plaintiff,

vs.

L. L. SCHULTEIS, et al.,

Defendants.

1:08-cv-00615-LJO-GSA-PC

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS (Doc. 65.)

ORDER FOR THIS ACTION TO PROCEED ONLY AGAINST DEFENDANTS HOPKINS AND BUSBY FOR USE OF EXCESSIVE FORCE, AGAINST DEFENDANTS HOPKINS, DAVIS, DUFFY, AND BECKETT FOR FAILURE TO PROTECT PLAINTIFF, AND AGAINST DEFENDANTS HOPKINS, BUSBY, DAVIS, DUFFY, AND BECKETT FOR CONSPIRACY TO USE EXCESSIVE FORCE

ORDER DISMISSING ALL OTHER CLAIMS AND DEFENDANTS

Jacques Fearance ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on May 1, 2008. (Doc. 1.) This case now proceeds on the Third Amended Complaint filed by Plaintiff on November 22, 2013. (Doc. 64.) 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 December 6, 2013, the Court entered Findings and Recommendations, recommending that this action proceed only against defendants Hopkins and Busby for use of excessive force; against defendants Hopkins, Davis, Duffy, and Beckett for failure to protect Plaintiff; and against defendants Hopkins, Busby, Davis, Duffy, and Beckett for conspiracy to use excessive force. (Doc. 65.) Plaintiff was provided an opportunity to file objections to the

Findings and Recommendations within thirty days. To date, Plaintiff has not filed objections or otherwise responded to the Findings and Recommendations.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, 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 proper analysis.

III. CONCLUSION

Accordingly, THE COURT HEREBY ORDERS that:

1. The Findings and Recommendations issued by the Magistrate Judge on December 6, 2013, are ADOPTED in full;
2. This action now proceeds on Plaintiff's Third Amended Complaint, filed on November 22, 2013, against defendants Hopkins and Busby for use of excessive force; against defendants Hopkins, Davis, Duffy, and Beckett for failure to protect Plaintiff; and against defendants Hopkins, Busby, Davis, Duffy, and Beckett for conspiracy to use excessive force;
3. All remaining claims and defendants are DISMISSED from this action;
4. Plaintiff's claims for verbal harassment and injunctive relief are dismissed from this action based on Plaintiff's failure to state a claim under § 1983; and
5. This case is referred back to the Magistrate Judge for further proceedings including service of process upon defendant Beckett.

IT IS SO ORDERED.

Dated: **January 13, 2014**

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