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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANGEL H. HERNANDEZ,

CASE NO. 1:09-cv-00268-LJO-SMS PC

Plaintiff,

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
CERTAIN CLAIMS AND DEFENDANTS,
AND REFERRING MATTER BACK TO
MAGISTRATE JUDGE

v.

CHRIS JORDAN, et al.,

Defendants.

(Docs. 8 and 10)

Plaintiff Angel H. Hernandez, a state prisoner proceeding pro se and in forma pauperis, filed this civil action pursuant to 42 U.S.C. § 1983 and California law on February 11, 2009. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On November 25, 2009, the Magistrate Judge screened Plaintiff’s [Amended Complaint](#) and issued a [Findings and Recommendations](#) recommending dismissal of certain claims and defendants. 28 U.S.C. § 1915A. Plaintiff was given thirty days within which to file an Objection, if any. No Objection was filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), 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 by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

- 1. The Findings and Recommendations, filed November 25, 2009, is adopted in full;

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2. This action shall proceed as one for money damages on Plaintiff's amended complaint against Defendants Costner and Doe 1 for use of excessive force, in violation of the Fourteenth Amendment, and for negligence under California law;
3. Plaintiff's official capacity claims are dismissed as redundant of his municipal liability claims, and his supervisory liability and municipal liability claims are dismissed, with prejudice, for failure to state a claim;
4. Plaintiff's section 1981 claim is dismissed, with prejudice, for failure to state a claim;
5. Plaintiff's negligence claims against Defendants Garcia, Costner, Tolbert, Henderson, Vento, Taser International, Inc., and Kings County are dismissed, with prejudice, for failure to state a claim;
6. Plaintiff's professional negligence claims against medical staff at the jail are dismissed, with prejudice, for failure to state a claim, or in the alternative, are dismissed without prejudice pursuant to Rule 18;
7. Plaintiff's claims for declaratory and injunctive relief are dismissed for failure to state a claim;
8. Defendants Jordan, the Board of Supervisors for Kings County, Tolbert, Garcia, Henderson, Vento, Does 1-25, Kings County, the Mayor of Kings County, Taser International, Inc., and jail medical staff are dismissed based on Plaintiff's failure to state any claims upon which relief may be granted against them; and
9. This matter is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: January 19, 2010

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