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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

LARRY ZUNIGA,

Plaintiff,

v.

CHRIS JORDAN, et al.,

Defendants.

CASE NO. 1:09-cv-01208-AWI-SMS PC

ORDER DISMISSING CERTAIN CLAIMS  
AND DEFENDANTS, AND REFERRING  
MATTER BACK TO MAGISTRATE JUDGE  
TO INITIATE SERVICE OF PROCESS

(Docs. 1, 8, and 9)

Plaintiff Larry Zuniga, a prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 13, 2009. On December 23, 2009, the Magistrate Judge screened Plaintiff's complaint, and found that it states a claim against Defendants Berke, Torres, John Doe 1, Henderson, and Jordan for use of excessive force, in violation of the Eighth Amendment, but does not state any other claims for relief under section 1983. 28 U.S.C. § 1915A. Plaintiff was ordered to either file an amended complaint or notify the Court of his willingness to proceed only on the claim found to be cognizable. On January 14, 2010, Plaintiff filed a notice stating that he does not wish to amend and is willing to proceed only on his cognizable excessive force claim.

Accordingly, based on Plaintiff's notice, it is **HEREBY ORDERED** that:

1. This action shall proceed as one for money damages against Defendants Berke, Torres, John Doe 1, Henderson, and Jordan for use of excessive force, in violation of the Eighth Amendment;

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- 1           2.     Plaintiff's excessive force claim against Defendants Gomes, Bailey, Jones, Thayer,  
2                   Hunter, and Valdez is dismissed for failure to state a claim;
- 3           3.     Plaintiff's Eighth Amendment claims against Defendants Henderson and Baily  
4                   arising from their assessment and documentation of his wounds are dismissed for  
5                   failure to state a claim;
- 6           4.     Plaintiff's Eighth Amendment claim against Defendant arising from his failure to  
7                   provide Plaintiff with clean clothes is dismissed for failure to state a claim;
- 8           5.     Plaintiff's municipal liability claim against Mayor of Hanford,<sup>1</sup> the Kings County  
9                   Board of Supervisors, and Jail Facility Manager Kim is dismissed for failure to state  
10                  a claim;
- 11          6.     Plaintiff's claims for declaratory and injunctive relief are dismissed for failure to  
12                  state a claim;
- 13          7.     Defendants Gomes, Bailey, Jones, Thayer, Hunter, Valdez, Delia, Ruiz, Gonzalez,  
14                  Hernandez, Heritage, the Mayor of Hanford, the Kings County Board of Supervisors,  
15                  and Jail Facility Manager Kim are dismissed from this action based on Plaintiff 's  
16                  failure to state any claims against them; and
- 17          8.     This matter is referred back to the Magistrate Judge to initiate service of process  
18                  proceedings.

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20 IT IS SO ORDERED.

21 **Dated:** January 26, 2010

/s/ Anthony W. Ishii  
CHIEF UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Erroneously identified as the Mayor of Kings County.