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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LAMONT SHEPARD,

CASE NO. 1:10-cv-00754-SKO PC

Plaintiff,

ORDER DISMISSING CERTAIN CLAIMS

v.

BASS, et al.,

Defendants.

Plaintiff Lamont Shepard ("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 jurisdiction by U.S. Magistrate Judge. (Doc. #5.)

On November 23, 2010, the Court issued an order finding that Plaintiff's complaint stated cognizable claims against Defendants Bass and G. Miranda for the use of excessive force against Plaintiff. The Court noted that Plaintiff failed to state any other claims against any other Defendants. The Court ordered Plaintiff either to file an amended complaint or to notify the Court that he wished to proceed only on the claims found to be cognizable.

On December 30, 2010, Plaintiff notified the Court that he does not wish to amend and is willing to proceed only on the claims found to be cognizable. Accordingly, this action will proceed only on Plaintiff's excessive force claims against Defendants Bass and Miranda and all other claims raised in Plaintiff's complaint will be dismissed for failing to state a claim. 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 a claim).

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Accordingly, it is HEREBY ORDERED that:

1. This action shall proceed on Plaintiff's Eighth Amendment claims against Defendants Bass and G. Miranda for the use of excessive force against Plaintiff; and
2. All other claims raised in Plaintiff's complaint are DISMISSED.

IT IS SO ORDERED.

Dated: January 4, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE