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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 KEVIN E. FIELDS,

10 Plaintiff,

11 vs.

12 P. PATTERSON, et al.,

13 Defendants.
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1:10-cv-01700-LJO-GSA-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ON THE FIRST AMENDED
COMPLAINT AGAINST DEFENDANT C/O
PATTERSON FOR USE OF EXCESSIVE
FORCE; AGAINST DEFENDANTS C/O
PATTERSON AND SGT. MOLINA FOR
RETALIATION; AND AGAINST
DEFENDANTS SGT. MOLINA AND LT.
FINLEY, FOR FAILURE TO COMPLY
WITH STATE LAW; AND THAT ALL
OTHER CLAIMS AND DEFENDANTS BE
DISMISSED FROM THIS ACTION
(Doc. 16.)

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY DAYS

20 Kevin E. Fields ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis
21 in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
22 commencing this action on September 17, 2010. (Doc. 1.) The case now proceeds on the First
23 Amended Complaint filed by Plaintiff on May 31, 2013. (Doc. 16.) The First Amended
24 Complaint names Correctional Officer (C/O) Patterson, Sergeant (Sgt.) Molina, and Lieutenant
25 (Lt.) Finley, as defendants.

26 The court screened the First Amended Complaint pursuant to 28 U.S.C. § 1915A and
27 found that it states cognizable claims under § 1983 against defendant C/O Patterson for use of
28 excessive force; against defendants C/O Patterson and Sgt. Molina for retaliation; and against

1 defendants Sgt. Molina and Lt. Finley for failure to comply with state law. On February 5,
2 2014, the court entered an order requiring Plaintiff to either file a Second Amended Complaint
3 or notify the court of his willingness to proceed only on the claims found cognizable by the
4 court. (Doc. 21.) On February 18, 2014, Plaintiff filed a notice informing the court that he is
5 willing to proceed only on the claims found cognizable by the court. (Doc. 22.)

6 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 7 1. This action proceed with the First Amended Complaint filed on May 31, 2013,
8 against defendant C/O Patterson for use of excessive force; against defendants
9 C/O Patterson and Sgt. Molina for retaliation; and against defendants Sgt.
10 Molina and Lt. Finley, for failure to comply with state law;
- 11 2. All remaining claims and defendants be dismissed from this action based on
12 Plaintiff's failure to state any claims upon which relief may be granted.

13 These Findings and Recommendations will be submitted to the United States District
14 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
15 **twenty (20) days** after being served with these Findings and Recommendations, Plaintiff may
16 file written objections with the Court. The document should be captioned "Objections to
17 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
18 objections within the specified time may waive the right to appeal the District Court's order.
19 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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23 IT IS SO ORDERED.

24 Dated: **February 21, 2014**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE