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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA

7 C. DWAYNE GILMORE,
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9 Plaintiff,

10 vs.

11 D. AUGUSTUS, et al.,

12 Defendants.
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1:12-cv-00925-LJO-GSA-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 123; also resolves ECF No. 117.)

ORDER DENYING PLAINTIFF'S MOTION
FOR SUBSTITUTION, OR IN THE
ALTERNATIVE, FOR LEAVE TO SERVE
PROCESS UPON DEFENDANT TORRES'
LEGAL REPRESENTATIVE
(ECF No. 89.)

ORDER DENYING DEFENDANTS'
MOTION TO STRIKE
(ECF No. 94.)

ORDER DISMISSING DEFENDANT
TORRES FROM THIS ACTION, WITH
PREJUDICE

ORDER DISMISSING PLAINTIFF'S
MEDICAL CLAIM FROM THIS ACTION

21 C. Dwayne Gilmore ("Plaintiff") is a state prisoner proceeding pro se in this civil rights
22 action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate
23 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

24 On May 27, 2015, [findings and recommendations](#) were entered, recommending that
25 Plaintiff's motion for substitution and Defendants' motion to strike be denied, and that
26 defendant Torres and Plaintiff's medical claim be dismissed from this action. (ECF No. 123.)
27 On June 19, 2015, Plaintiff filed [objections](#) to the findings and recommendations. (ECF No.
28 127.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
2 Court has conducted a de novo review of this case. Having carefully reviewed the entire file,
3 including Plaintiff's objections, the Court finds the findings and recommendations to be
4 supported by the record and proper analysis.

5 Accordingly, THE COURT HEREBY ORDERS that:

- 6 1. The Findings and Recommendations issued by the Magistrate Judge on May 27,
7 2015, are ADOPTED IN FULL;
- 8 2. Plaintiff's motion for substitution, or in the alternative, for leave to serve process
9 upon defendant Torres' legal representative, filed on November 20, 2014, is
10 DENIED;
- 11 3. Defendants' motion to strike Plaintiff's motion for substitution, filed on
12 December 11, 2014, is DENIED;
- 13 4. Defendant J. J. Torres is DISMISSED from this action, with prejudice;
- 14 5. Plaintiff's Eighth Amendment medical claim is DISMISSED from this action;
- 15 6. The Clerk is directed to reflect the dismissal of defendant Torres from this
16 action on the court's record;
- 17 7. This case now proceeds only against defendants C/O Lockard, C/O Lopez, and
18 C/O J. Hightower, for use of excessive force in violation of the Eighth
19 Amendment; and
- 20 8. This case is referred back to the Magistrate Judge for further proceedings.

21 IT IS SO ORDERED.
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23 Dated: July 7, 2015

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