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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JUAN CHAVEZ,  
Plaintiff,  
v.  
KINGS COUNTY, et al.,  
Defendants.

Case No. 1:13-cv-00342-AWI-SKO PC

**ORDER DIRECTING THAT ACTION  
PROCEED AGAINST DEFENDANT  
CASTRO FOR EXCESSIVE FORCE,  
ASSAULT, AND BATTERY, AND  
DISMISSING OTHER CLAIMS AND  
PARTIES**

(Docs. 1, 7, and 8)

**ORDER REFERRING MATTER BACK TO  
MAGISTRATE JUDGE TO INITIATE  
SERVICE OF PROCESS**

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Plaintiff Juan Chavez, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 and California law on March 13, 2013. On October 30, 2013, the Magistrate Judge screened Plaintiff's complaint and determined that it stated cognizable claims for relief against Defendant E. Castro for using excessive physical force, in violation of the Eighth Amendment of the United States Constitution, and for assault and battery under state law. 28 U.S.C. § 1915A. The Magistrate Judge found that Plaintiff's complaint did not state any other claims for relief against any other parties. Plaintiff was ordered to either file an amended complaint or notify the Court of his willingness to proceed against Defendant Castro on those claims found to be cognizable.

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1 On November 20, 2013, Plaintiff filed a notice stating that he does not wish to file an  
2 amended complaint and he agrees to proceed only against Defendant Castro. Accordingly, based  
3 on Plaintiff's notice, the Court HEREBY ORDERS as follows:

4 1. This action shall proceed against Defendant E. Castro for excessive force in  
5 violation of the Eighth Amendment and for assault and battery under California law;

6 2. All other claims are dismissed from this action for failure to state a claim;

7 3. Defendants Kings County; California Department of Corrections and  
8 Rehabilitation; Warden Gibson; Lieutenant J. Keener; Sergeants J. Gonzales and L. A. Martinez;  
9 and Correctional Officers H. Florez, B. Simmons, and S. Longoria are dismissed from this action  
10 for failure to state a claim; and

11 4. This action is referred back to the Magistrate Judge to initiate service of process.

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13 IT IS SO ORDERED.

14 Dated: November 21, 2013

  
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SENIOR DISTRICT JUDGE

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