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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOHNATHAN HILL,

12 Plaintiff,

13 vs.

14 J. CLARK, et al.,

15 Defendants.  
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1:13-cv-00386-LJO-GSA-PC

FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS ACTION  
PROCEED ONLY AGAINST DEFENDANTS  
CLARK AND RIVAS ON PLAINTIFF'S  
EIGHTH AMENDMENT CLAIMS, AND ALL  
REMAINING CLAIMS AND DEFENDANTS  
BE DISMISSED  
(Doc. 1.)

OBJECTIONS, IF ANY, DUE WITHIN  
THIRTY DAYS

19 Johnathan Hill ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in  
20 this civil rights action pursuant to 42 U.S.C. § 1983. The case now proceeds on the original  
21 Complaint filed by Plaintiff on March 18, 2013. (Doc. 1.) The Complaint names Correctional  
22 Officer (C/O) J. Clark, C/O A. Rivas, C/O L. Aragon; C/O A. Tirado; C/O J. Magana, and  
23 Sergeant W. Rasley as defendants, and alleges claims for excessive force and failure to protect  
24 under the Eighth Amendment.

25 The court screened Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A and found that  
26 it states cognizable claims for relief under § 1983 against defendant C/O J. Clark for use of  
27 excessive force in violation of the Eighth Amendment, and against defendant C/O A. Rivas for  
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1 failure to protect Plaintiff in violation of the Eighth Amendment. Hudson v. McMillian, 503  
2 U.S. 1, 5 (1992); Oliver v. Keller, 289 F.3d 623, 628 (9th Cir. 2002); Farmer v. Brennan, 511  
3 U.S. 825, 832-33 (1994); Hearns v. Terhune, 413 F.3d 1036, 1040 (9th Cir. 2005). On  
4 September 16, 2013, Plaintiff was given leave to either file an amended complaint, or in the  
5 alternative, to notify the court that he does not wish to file an amended complaint and instead  
6 wishes to proceed only on the claims identified by the court as viable/cognizable in the court's  
7 order. (Doc. 7.) On September 27, 2013, Plaintiff filed written notice to the court that he  
8 wishes to proceed only on the claims found cognizable by the court. (Doc. 8.)

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

- 10 1. This action proceed only against defendants C/O J. Clark for use of excessive  
11 force in violation of the Eighth Amendment, and C/O A. Rivas for failure to  
12 protect Plaintiff in violation of the Eighth Amendment;
- 13 2. All remaining claims and defendants be dismissed from this action;
- 14 3. Defendants C/O L. Aragon; C/O A. Tirado; C/O J. Magana, and Sergeant W.  
15 Rasley be dismissed from this action based on Plaintiff's failure to state any  
16 claims upon which relief may be granted against them under § 1983.

17 These Findings and Recommendations will be submitted to the United States District  
18 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within  
19 thirty (30) days after being served with these Findings and Recommendations, Plaintiff may file  
20 written objections with the Court. The document should be captioned "Objections to  
21 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
22 objections within the specified time may waive the right to appeal the District Court's order.  
23 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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27 IT IS SO ORDERED.

28 Dated: October 2, 2013

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE

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