# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA 

KEITH BULKIN,
Plaintiff,
v.
V. OCHOA, et al.,

Defendants.

Plaintiff Keith Bulkin is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 18, 2013. (Doc. No. 1.) This case is proceeding on plaintiff's first amended complaint against defendants Ochoa, Mares, and Alvarez for violations of the Eighth Amendment. (Doc. No. 13.) Plaintiff's complaint stems from injuries he allegedly suffered when he was being transported back to his institution of confinement from a court appearance. (Id.) Specifically, the complaint alleges that defendants refused plaintiff the use of a seatbelt during the transport even though the transport van was being driven in a reckless manner. (Id.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 21, 2016, defendants Ochoa, Mares, and Alvarez filed a motion for summary judgment. (Doc. No. 47.) On October 28, 2016, plaintiff filed his opposition to the motion. (Doc. No. 64.) On November 4, 2016, defendants Ochoa, Mares, and Alvarez filed their reply. (Doc. No. 65.) On December 7, 2016, the assigned magistrate judge issued findings and
recommendations recommending that defendants' motion for summary judgment be denied. (Doc. No. 66.)

Defendants Ochoa, Mares, and Alvarez filed timely objections to the findings and recommendations, arguing that the magistrate judge had erred in concluding that officer Ochoa's alleged reckless driving did not have to be the actual and proximate cause of plaintiff's claimed injuries and that no genuine dispute of fact exists as to whether officer Ochoa was driving recklessly at the time plaintiff fell from his seat in the transport vehicle and was injured. (Doc. No. 67.) ${ }^{1}$ These were essentially the same arguments advanced by defendants in moving for summary judgment. The assigned magistrate judge, however, thoroughly addressed defendants' arguments and the relevant issues in the findings and recommendations and the undersigned agrees in all respects with the analysis set forth therein. ${ }^{2}$ (See Doc. No. 66 at 12-14.)

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

1. The findings and recommendations (Doc. No. 66) issued by the magistrate judge on December 7, 2016, are adopted in full;
2. The motion for summary judgment filed on behalf of defendants Ochoa, Mares, and Alvarez (Doc. No. 47) is denied; and
3. This case is referred back to the magistrate judge for further proceedings.

## IT IS SO ORDERED.

## Dated: January 30, 2017



UNITED STATES DISTRICT JUDGE

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[^0]:    Plaintiff did not object to the findings and recommendations or file a reply to the objections filed on behalf of defendants Ochoa, Mares, and Alvarez.
    ${ }^{2}$ At the very least, a disputed issue of material fact exists as to whether defendant Ochoa was driving recklessly at the time plaintiff suffered his injury. That alone is a sufficient basis upon which to deny summary judgment here.

