

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DURRELL A. PUCKETT,
Plaintiff,
v.
SGT. RONALD VOGEL, et al.,
Defendants.

Case No. 1:13-cv-00525-AWI-SKO (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF’S SUMMARY JUDGMENT
MOTION AS PROCEDURALLY
DEFICIENT, AND DENYING
DEFENDANTS’ RULE 56(D) MOTIONS AS
MOOT
(Docs. 51, 52, 54, and 55)

Plaintiff Durrell A. Puckett, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 12, 2013. This action for damages is proceeding on Plaintiff’s amended complaint against Defendants Sanchez, Vogel, and Johnson for retaliation in violation of the First Amendment; against Defendants Sanchez, Vogel, Johnson, Dean, Bolander, Abadia, Lockhart, Zamora, Sisneros, Campos, and Callow for excessive force in violation of the Eighth Amendment; and against Defendants Sanchez, Vogel, and Johnson for violation of the Equal Protection Clause of the Fourteenth Amendment.

On March 4, 2015, Plaintiff filed a motion for summary judgment. Fed. R. Civ. P. 56(c). In response, Defendant Zamora filed a Rule 56(d) motion on March 9, 2015, and Defendants Sanchez, Vogel, Johnson, Dean, Bolander, Lockhart, Sisneroz, Campos, and Callow filed a Rule 56(d) motion on March 24, 2015. Fed. R. Civ. P. 56(d). The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302; and on May 20,

1 2015, the Magistrate Judge issued findings and recommendations recommending Plaintiff's
2 motion be denied, without prejudice, on the ground that it is procedurally deficient and
3 Defendants' motions be denied as moot. The parties did not file objections.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
5 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings
6 and Recommendations to be supported by the record and by proper analysis.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations, filed on May 20, 2015, are adopted in full;
- 9 2. Plaintiff's motion for summary judgment, filed on March 4, 2015, is DENIED,
10 without prejudice, on procedural grounds; and
- 11 3. Defendants' Rule 56(d) motions, filed on March 9, 2015, and March 24, 2015, are
12 DENIED as moot.

13 IT IS SO ORDERED.

14 Dated: June 25, 2015



15 SENIOR DISTRICT JUDGE

16
17
18
19
20
21
22
23
24
25
26
27
28