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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RODERICK LEAR,

 Plaintiff,

 v.

MICHELLE LEFTLER, et al.,

 Defendants.

Case No. 1:13-cv-00882-AWI-MJS (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS (1) FOR SERVICE
OF COGNIZABLE CLAIMS IN SECOND
AMENDED COMPLAINT AGAINST
DEFENDANTS LEFTLER, DESOUSA AND
AGUAYO, and (2) DISMISSING ALL
OTHER DEFENDANTS**

(ECF No. 25)

**THIRTY-DAY DEADLINE TO RETURN
SERVICE DOCUMENTS**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

On May 20, 2014, the Magistrate Judge issued Findings and Recommendations that (1) the Second Amended Complaint states an excessive force claim for damages against Defendants Leftler, Desousa and Aguayo, and service should be initiated against these Defendants, and (2) all other claims asserted in the Second Amended Complaint and all

1 other named Defendants should be dismissed with prejudice. (F&R's, ECF No. 25, at ¶ V.)

2 On June 9, 2014, Plaintiff responded to the Findings and Recommendations stating
3 his desire to proceed on cognizable claims against Defendants Leftler, Desousa and
4 Aguayo. (Resp. to F&R's, ECF No. 26, ¶ 1.) Plaintiff did not object to the Findings and
5 Recommendations and the time for doing so has expired. (F&R's, ECF No. 25, at ¶ V.)

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

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. The Court adopts the Findings and Recommendations filed on May 20, 2014
12 (ECF No. 25), in full,
- 13 2. Plaintiff shall proceed on the Second Amended Complaint excessive force
14 claim for damages against Defendants Leftler, Desousa and Aguayo,
- 15 3. All other claims asserted in the Second Amended Complaint and all other
16 Defendants named in this action are dismissed with prejudice,
- 17 4. Service shall be initiated on the following Defendants:
 - 18 a. LEFTLER, CSATF Correctional Officer,
 - 19 b. DESOUSA, CSATF Correctional Officer,
 - 20 c. AGUAYO, CSATF Correctional Officer,
- 21 5. The Clerk of the Court shall send Plaintiff three (3) USM-285 forms, three (3)
22 summons, a Notice of Submission of Documents form, an instruction sheet
23 and a copy of the Second Amended Complaint filed October 15, 2013,
- 24 6. Within thirty (30) days from sevice of this Order, Plaintiff shall complete and
25 return to the Court the Notice of Submission of Documents along with the
26 following documents:
 - 27 a. Completed summons,
 - 28 b. One completed USM-285 form for each Defendant listed above,

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c. Four (4) copies of the endorsed Second Amended Complaint filed
October 15, 2013, and

7. Upon receipt of the above-described documents, the Court should direct the
United States Marshal to serve the above-named Defendants pursuant to
Federal Rule of Civil Procedure 4 without payment of costs.

IT IS SO ORDERED.

Dated: June 30, 2014



SENIOR DISTRICT JUDGE