

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
FOR THE EASTERN DISTRICT OF CALIFORNIA

ESS'NN A. AUBERT,

 Plaintiff,

 v.

E. MADRUGA and B. HOBBS,

 Defendants.

No. 1:13-cv-01659-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 51)

ORDER DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT, AND
GRANTING IN PART AND DENYING IN
PART DEFENDANTS' CROSS-MOTION
FOR SUMMARY JUDGMENT

(Doc. Nos. 28, 42)

ORDER ENTERING PARTIAL SUMMARY
JUDGMENT IN FAVOR OF DEFENDANTS
ON PLAINTIFF'S CLAIM FOR INJUNCTIVE
RELIEF

ORDER FOR THIS CASE TO PROCEED
AGAINST DEFENDANTS HOBBS AND
MADRUGA FOR USE OF EXCESSIVE
FORCE

Plaintiff Ess'nn A. Aubert is a state prisoner proceeding *pro se* with this civil rights action brought 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.

1 On May 17, 2016, the assigned magistrate judge issued findings and recommendations,
2 recommending that (1) plaintiff's motion for summary judgment be denied, and (2) defendants'
3 motion for summary judgment be granted in part and denied in part. (Doc. No. 51.) On June 20,
4 2016, defendants filed objections to those findings and recommendations. (Doc. No. 52.)
5 Plaintiff has not filed any objections.


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

10 Accordingly,

- 11 1. The May 17, 2016 findings and recommendations (Doc. No. 51) are adopted in full;
- 12 2. Plaintiff's motion for summary judgment (Doc. No. 28) is denied;
- 13 3. Defendants' cross-motion for summary judgment (Doc. No. 42) is denied except with
14 respect to plaintiff's request for injunctive relief;
- 15 4. Partial summary judgment is entered in favor of defendants with respect to plaintiff's
16 request for injunctive relief;
- 17 5. This case now proceeds only against defendants Hobbs and Madruga for use of
18 excessive force in violation of the Eighth Amendment; and
- 19 6. This case is referred back to the assigned magistrate judge for further proceedings.

20 IT IS SO ORDERED.

21 Dated: August 24, 2016

22 
UNITED STATES DISTRICT JUDGE