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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA

8
9 RICHARD SANSONE,
10 Plaintiff,
11 vs.
12 J. C. THOMAS,
13 Defendant.

1:13-cv-01942-DAD-EPG-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANTS
THOMAS AND JOHN DOE #1 FOR USE OF
EXCESSIVE FORCE, AND THAT ALL
OTHER CLAIMS AND DEFENDANTS BE
DISMISSED

14 OBJECTIONS, IF ANY, DUE IN 20 DAYS

15 Richard Sansone ("Plaintiff") is a state prisoner proceeding *pro se* with this civil rights
16 action pursuant to 42 U.S.C. § 1983. The case now proceeds on the First Amended Complaint
17 filed by Plaintiff on November 13, 2014. (ECF No. 27.) The First Amended Complaint names
18 Correctional Officer J. C. Thomas, Jane Doe #1 (dental assistant), John Doe #1 (correctional
19 officer), John Doe #2 (correctional sergeant), John Doe #3 (appeals coordinator) and John Doe
20 #4 (warden) as defendants, and alleges medical claims and claims for excessive force under the
21 Eighth Amendment, and violations of due process under the Fourteenth Amendment.

22 The Court screened Plaintiff's First Amended Complaint pursuant to 28 U.S.C. § 1915A
23 and found that it states cognizable claims for use of excessive force against defendants J. C.
24 Thomas and John Doe #1. (ECF No. 30.) On January 22, 2016, Plaintiff was granted leave to
25 either file a Second Amended Complaint or notify the Court that he is willing to proceed only
26 on the claims found cognizable by the Court. (*Id.*) On February 4, 2016, Plaintiff filed a notice
27 informing the Court that he is willing to proceed only on the cognizable Eighth Amendment
28 excessive force claims against defendants Thomas and John Doe #1. (ECF No. 31.)

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

- 2 1. This action proceed only against defendants Correctional Officers J. C. Thomas
3 and John Doe #1, on Plaintiff's claims for use of excessive force in violation of
4 the Eighth Amendment;
- 5 2. All remaining claims and defendants be dismissed from this action;
- 6 3. Plaintiff's claims for inadequate medical care under the Eighth Amendment and
7 for violation of due process under the Fourteenth Amendment be dismissed from
8 this action based on Plaintiff's failure to state a claim upon which relief may be
9 granted under § 1983;
- 10 4. Defendants Jane Doe #1 (dental assistant), John Doe #2 (correctional sergeant),
11 John Doe #3 (appeals coordinator) and John Doe #4 (warden) be dismissed from
12 this action based on Plaintiff's failure to state any claims against them under §
13 1983.

14 These Findings and Recommendations will be submitted to the United States District
15 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
16 twenty (20) days after being served with these Findings and Recommendations, any party may
17 file written objections with the Court. The document should be captioned "Objections to
18 Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be
19 served and filed within ten days after service of the objections. The parties are advised that
20 failure to file objections within the specified time may result in the waiver of rights on appeal.
21 Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923
22 F.2d 1391, 1394 (9th Cir. 1991)).

23
24 IT IS SO ORDERED.

25 Dated: February 5, 2016

26 /s/ Eric P. Grogan
27 UNITED STATES MAGISTRATE JUDGE
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