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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

RAMON ARCEO,)	Case No.: 1:13-cv-2083-MJS
)	
Plaintiff,)	ORDER DISMISSING CERTAIN OF PLAINTIFF'S CLAIMS
)	
v.)	(ECF No. 1)
)	
J. GONZALES, et al.,)	THIRTY-DAY DEADLINE
)	
Defendants.)	
)	
)	
)	

On December 23, 2013, Ramon Arceo ("Plaintiff"), an individual proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983. (Compl., ECF No. 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (ECF No. 5.)

On January 29, 2014, after reviewing Plaintiff's Complaint, the Court ordered Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed on his cognizable claims against Defendants Receo, Souvannkaham, and Gonzales under the Eighth Amendment to the United States Constitution for excessive force and under California state law for assault and battery. (ECF No. 7.) On February 14, 2014, Plaintiff notified the Court of his willingness to forgo an amended complaint and proceed with his

1 Eighth Amendment and state law claims. (ECF No. 9.)

2 Accordingly, all claims in Plaintiffs Complaint except for his Eighth Amendment
3 excessive force claim and state law claim for assault and battery against Defendants Receo,
4 Souvannkaham, and Gonzales should now be dismissed. The Court hereby ORDERS the
5 following:

- 6 1. Plaintiff be allowed to proceed on his Eighth Amendment excessive force claim
7 against Defendants Receo, Souvannkaham, and Gonzales;
- 8 2. Plaintiff be allowed to proceed on his California state law assault and battery
9 claim against Defendants Receo, Souvannkaham, and Gonzales;
- 10 3. Plaintiff's Fourteenth Amendment claim against Defendants Receo,
11 Souvannkaham, and Gonzales is DISMISSED;
- 12 4. Service shall be initiated on the following defendants:

13 **J. Gonzales**, correctional officer at California Correctional Institution
14 ("CCI")

15 **M. Receo**, correctional officer at CCI

16 **E. Souvannkaham**, correctional officer at CCI

- 17 5. The Clerk of the Court shall send Plaintiff three (3) USM-285 forms, three (3)
18 summonses, a Notice of Submission of Documents form, an instruction sheet,
19 and a copy of the Complaint filed December 23, 2013;
- 20 6. Within thirty (30) days from the date of this order, Plaintiff shall complete the
21 attached Notice of Submission of Documents and submit the completed Notice
22 to the Court with the following documents:
 - 23 a. Completed summonses;
 - 24 b. One completed USM-285 form for each defendant listed above; and
 - 25 c. Four (4) copies of the endorsed Complaint filed December 23, 2013;
- 26 7. Plaintiff need not attempt service on the defendant and need not request waiver
27 of service. Upon receipt of the above-described documents, the Court will
28 direct the United States Marshal to serve the above-named defendant pursuant
to Federal Rule of Civil Procedure 4 without payment of costs; and

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8. The failure to comply with this order will result in dismissal of this action.

IT IS SO ORDERED.

Dated: March 25, 2014

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE