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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PEDRO CRUZ PLASCENCIA,

Plaintiff,

v.

COUNTY OF KINGS, et al.,

Defendants.

Case No. 1:14-cv-00441-LJO-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(ECF Nos. 4, 5, 6, 7, 13, 14, 15, 16)

Plaintiff Pedro Cruz Plascencia filed the complaint in this action in the Kings County Superior Court on November 18, 2013, against Defendants County of Kings, Kings County Sheriff's Department, City of Hanford, and Hanford Police Department alleging excessive force and failure to provide medical attention in violation of the Fourth and Fourteenth Amendments and negligence under state law. (ECF No. 1-1.) On March 26, 2014, Defendants removed this action to the Eastern District of California. (ECF No. 1.) Defendants County of Kings and Kings County Sheriff's Department filed a motion to dismiss on April 1, 2014. (ECF No. 4.) Defendants City of Hanford and Hanford Police Department filed a motion to dismiss on April 2, 2014. (ECF Nos. 5-7.) The motions to dismiss were referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. (ECF Nos. 17, 18.)

On May 7, 2014, the Magistrate Judge filed a Findings and Recommendations which was served on the parties and contained notice that any objections to the Findings and

1 Recommendations were to be filed within fourteen days. More than fourteen days have passed
2 and no objections have been filed.

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

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The Findings and Recommendations, filed May 7, 2014, are adopted in full;
- 8 2. County Defendants' motion to dismiss, filed April 2, 2014, is GRANTED;
- 9 3. City Defendants' motion to dismiss filed April 2, 2014, is GRANTED IN PART
10 AND DENIED IN PART as follows;
 - 11 a. Defendants' motion to dismiss the second cause of action is GRANTED; and
 - 12 b. Defendants' motion to dismiss the section 1983 claim on the ground that Plaintiff
13 failed to comply with the California Tort Claim Act is DENIED;
- 14 4. Plaintiff's complaint is dismissed;
- 15 5. Within fourteen days from the date of service of this order, Plaintiff shall file an
16 amended complaint; and
- 17 6. Failure to file an amended complaint in compliance with this order will result in this
18 action being dismissed.

19 IT IS SO ORDERED.
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21 Dated: May 28, 2014

/s/ Lawrence J. O'Neill
22 UNITED STATES DISTRICT JUDGE
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