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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROY BONNER,
Plaintiff,
v.
GIPSON, et al.,
Defendants.

Case No. 1:14-cv-00610-LJO-JLT (PC)
**FINDINGS AND RECOMMENDATION
THAT ACTION PROCEED ON
PLAINTIFF'S EXCESSIVE FORCE
CLAIMS AGAINST DEFENDANTS SGT.
SCAIFE & C.O. HOLGUIN AND THAT ALL
OTHER CLAIMS AND DEFENDANTS BE
DISMISSED**
(Doc. 1, 8)
RESPONSE DUE WITHIN 30 DAYS

I. Background

Plaintiff, William Roy Bonner, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint in this action on April 25, 2014. (Doc. 1.) On June 11, 2014, the Court screened the Complaint pursuant to 28 U.S.C. § 1915A and found that it stated cognizable claims against Defendants Sgt Scaife and C.O. Holguin for using excessive force in violation of the Eighth Amendment. (Doc. 8.) However, the Court found that Plaintiff’s Complaint failed to state any cognizable claims. (*Id.*)

The Court ordered Plaintiff to either remedy the deficiencies in his non-cognizable claims via an amended complaint or to notify the Court that Plaintiff wishes to proceed only on the claim(s) found to be cognizable. (*Id.*) On June 25, 2014, Plaintiff informed the Court that he wishes to proceed solely on the claim(s) found to be cognizable in the Court’s June 11, 2014

1 order. (Doc. 9.)

2 **II. Findings and Recommendation**

3 Plaintiff's Complaint states cognizable claims for relief against Defendants Sgt. Scaife and
4 C.O. Holguin for using excessive force in violation of the Eight Amendment. However, Plaintiff
5 does not state any other claims against Defendants Sgt. Scaife and/or C.O. Holguin upon which
6 relief may be granted, nor does it state any cognizable claims against any other Defendant named
7 in this action. Plaintiff was provided with the option of filing an amended complaint or
8 proceeding with the claims found to be cognizable by the Court. Plaintiff opted to proceed on his
9 cognizable claims under the Eighth Amendment for use of excessive force against Defendants
10 Sgt. Scaife and C.O. Holguin.

11 Accordingly, based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 12 1. This action proceed on Plaintiff's Complaint, filed April 25, 2014, against
13 Defendants Sgt. Scaife and C/O Holguin on Plaintiff's Eighth Amendment
14 excessive force claims;
- 15 2. all other claims and Defendants should be dismissed for Plaintiff's failure to state a
16 claim upon which relief may be granted; and
- 17 3. the action should be referred back to the Magistrate Judge for service and further
18 proceedings.

19 These Findings and Recommendations will be submitted to the United States District
20 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within 30**
21 **days** after being served with these Findings and Recommendations, Plaintiff may file written
22 objections with the Court. The document should be captioned "Objections to Magistrate Judge's
23 Findings and Recommendations."

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Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: July 9, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE