

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
EASTERN DISTRICT OF CALIFORNIA

JOHNNY G. BRIONES,

Plaintiff,

vs.

PLEASANT VALLEY STATE PRISON,
et al.,

Defendants.

1:14-cv-00750-LJO-EPG-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 40.)

ORDER FOR THIS ACTION TO
PROCEED ONLY AGAINST
DEFENDANTS MOORE, HENDRICKS,
HAND, AND COLE ON PLAINTIFF'S
EXCESSIVE FORCE CLAIMS, AND
DISMISSING ALL OTHER CLAIMS AND
DEFENDANTS

Johnny G. Briones (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case now proceeds on the Second Amended Complaint filed by Plaintiff on February 13, 2015. (ECF No. 31.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 9, 2016, the Court entered Findings and Recommendations, recommending that this action proceed only against defendants Correctional Officers R. Moore, C. Hendricks, R. Hand, and C. Cole, on Plaintiff’s excessive force claims, and that all other claims and defendants be dismissed from this action based on Plaintiff’s failure to state a claim. (ECF No. 40.) Plaintiff was provided an opportunity to file objections to the Findings and Recommendations within twenty days. To date, Plaintiff has not filed objections or otherwise responded to the Findings and Recommendations.

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
2 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
3 the Court finds the Findings and Recommendations to be supported by the record and proper
4 analysis.

5 Accordingly, THE COURT HEREBY ORDERS that:

- 6 1. The Findings and Recommendations issued by the Magistrate Judge on May 9,
7 2016, are ADOPTED in full;
- 8 2. This action now proceeds on Plaintiff's Second Amended Complaint, filed on
9 February 13, 2015, against Correctional Officers R. Moore, C. Hendricks, R.
10 Hand, and C. Cole, for use of excessive force in violation of the Eighth
11 Amendment;
- 12 3. All remaining claims and defendants are DISMISSED from this action;
- 13 4. Plaintiff's claims for supervisory liability, inadequate medical care, failure to
14 protect, Fourteenth Amendment liberty interests, and conspiracy are
15 DISMISSED from this action based on Plaintiff's failure to state a claim;
- 16 5. Defendants Warden Scott Frauenheim and the Doe Defendants are DISMISSED
17 from this action based on Plaintiff's failure to state any claims upon which relief
18 may be granted against them; and
- 19 6. The Clerk is DIRECTED to reflect the dismissal of all defendants from this
20 action on the Court's docket, except defendants Moore, Hendricks, Hand, and
21 Cole.

22
23 IT IS SO ORDERED.

24 Dated: June 8, 2016

25 /s/ Lawrence J. O'Neill
26 UNITED STATES CHIEF DISTRICT JUDGE
27
28