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

ANTONIO RAMIREZ, JR.,)	Case No.: 1:14-cv-00978 - JLT
Plaintiff,)	ORDER DISMISSING CERTAIN CLAIMS
v.)	ORDER TERMINATING DEFENDANTS'
BAKERSFIELD POLICE DEPT. et al.,)	MOTION TO DISMISS AS MOOT
Defendants.)	
)	
)	

Previously, the Court screened Plaintiff's complaint for civil rights violations arising under 42 U.S.C. § 1983 and determined Plaintiff stated a cognizable claim for excessive force in violation of the Fourteenth Amendment against Officers Petris and Roberts. (Doc. 5.) However, Plaintiff failed to state a cognizable claim for a violation of the Fifth Amendment or a violation of equal protection under the Fourteenth Amendment. (*Id.* at 4-6.) Further, Plaintiff failed to state a claim against the Bakersfield Police Department, because Plaintiff failed to set forth any factual allegations to suggest that an unconstitutional custom or policy caused his injuries. (*Id.* at 7.)

After the Court issued its order explaining the deficiencies of Plaintiff's complaint, Plaintiff notified the Court of his willingness to proceed only on the claim found cognizable. (Doc. 7.) Accordingly, the Court authorized service of the complaint to defendants Petris and Roberts. (Doc. 8.) Because the action was not assigned to a District Judge, Plaintiff's claims were not dismissed by the Court. Now, however, all parties have consented to the jurisdiction of the Magistrate Judge pursuant

1 to 28 U.S.C. § 636(c)(1). (Docs. 19-20, 25-26.) Accordingly, **IT IS HEREBY ORDERED:**

- 2 1. Plaintiff's claim for a violation of the Fifth Amendment is **DISMISSED**;
- 3 2. Plaintiff's claim for a violation of his right to equal protection under the Fourteenth
4 Amendment is **DISMISSED**;
- 5 3. The Bakersfield Police Department is **DISMISSED** as a defendant;
- 6 4. The action **SHALL** proceed only on Plaintiff's claim for excessive force in violation of
7 the Fourteenth Amendment; and
- 8 5. Defendants' motion to dismiss¹ (Doc. 12) is terminated as **MOOT**.

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10 IT IS SO ORDERED.

11 Dated: December 1, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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¹ Defendants assert that Plaintiff "fails to allege a statutory mechanism to allege a violation of his Constitutional
28 right." (Doc. 12.) However, on the face of the complaint, Plaintiff indicates that his complaint is filed pursuant to the
"Civil Rights Act 42 U.S.C. § 1983." (Doc. 1 at 1.) Because the Court addressed the deficiencies of Plaintiff's complaint
previously, and Plaintiff agreed to abandon the challenged claims, Defendants' motion is moot.