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

GERRY WILLIAMS,  
Plaintiff,  
v.  
W. OXBORROW, et al.,  
Defendants.

Case No. 1:14-cv-02073-AWI-SAB-PC  
FINDINGS AND RECOMMENDATION  
THAT DEFENDANTS ANDRADE,  
WEBSTER, SILVEIRA, MAY, AND  
DEATHRIDGE BE DISMISSED  
OBJECTIONS DUE IN THIRTY DAYS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

On February 1, 2016, the Court screened Plaintiff's December 29, 2014, complaint and found that Plaintiff stated cognizable claims against Defendants Oxborrow, Wisley, Shuler, J. Rodriguez, R. Rodriguez, Rumbles and Black for failure to protect Plaintiff and against Defendant Wisley for excessive force, in violation of the Eighth Amendment. (ECF No. 13.) The Court found that Plaintiff failed to state a claim against Defendants Andrade, Webster, Silveira, May, and Deathridge. The Court ordered Plaintiff to either file an amended complaint curing the deficiencies identified or notify the Court that he is willing to proceed only on his cognizable claims. On February 17, 2016, Plaintiff filed a notice stating that he does not intend to amend and is willing to proceed only on the claims found by the Court to be cognizable. The

1 Court will therefore recommend dismissal of the remaining Defendants. See Lopez v. Smith,  
2 203 F.3d 1122, 1127 (9th Cir. 2007)(court should identify the deficiencies in the complaint and  
3 grant Plaintiff opportunity to cure deficiencies prior to dismissal).

4 Accordingly, IT IS HEREBY RECOMMENDED that Defendants C/O J. Andrade, Lt.  
5 Webster, C/O A. Silveira, C/O T. May, and Sergeant Deathridge be dismissed from this action  
6 for Plaintiff's failure to state a claim upon which relief can be granted.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 18 U.S.C. § 636(b)(1)(B). Within thirty days  
9 after being served with these findings and recommendations, Plaintiff may file written objections  
10 with the Court. Such a document should be captioned "Objections to Magistrate Judge's  
11 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
12 specified time may result in waiver of rights on appeal. Wilkerson v. Wheeler, 77 F.3d 834 (9th  
13 Cir. 2014)(citing Baxter v. Sullivan, 923 F.2d 1394 (9th Cir. 1991)).

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15 IT IS SO ORDERED.

16 Dated: February 19, 2016

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19 UNITED STATES MAGISTRATE JUDGE  
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