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6	UNITED STATES DISTRICT COURT		
7	EASTERN DISTRICT OF CALIFORNIA		
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9	PHILLIP SANDERS,	1:15-cv-00395-LJO-EPG	
10	Plaintiff,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS RECOMMENDING	
11	v.	THAT THIS ACTION PROCEED ONLY AGAINST DEFENDANTS MATTHEW AND	
12	MATTHEW et al.,	STRUGEON ON PLAINTIFF'S UNLAWFUL	
13	Defendants.	ARREST AND EXCESSIVE FORCE CLAIMS AND THAT ALL OTHER CLAIMS AND	
14 15		DEFENDANTS BE DISMISSED	
15		(ECF Nos. 23, 24)	
10	Plaintiff, Phillips Sanders ("Plaintiff") appearing pro se and in forma pauperis, filed a		
18	complaint alleging civil rights violations pursuant to 42 U.S.C. § 1983 against numerous defendants. (Doc. 1). The Court screened the pleading and dismissed the complaint with leave to		
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20	amend. (Doc. 8). On February 22, 2016, Plai	intiff filed a Motion for Reconsideration, as well as a	
21	Notice of Appeal with the United States Cour	rt of Appeals for the Ninth Circuit ("Ninth Circuit").	
22	(Docs. 11 and 12). While the appeal was pen	nding, Plaintiff filed a First Amended Complaint	
23	("1AC") on March 4, 2016. (Doc. 17). Plain	ntiff's Motion for Reconsideration was denied on	
24	March 9, 2016. (Doc. 18). The Ninth Circui	t dismissed Plaintiff's appeal on April 7, 2016, and	
25	issued the mandate on May 2, 2016. (Docs. 19 and 20).		
26		23, 2016. (Doc. 21.) The Court found that the 1AC	
27	failed to state cognizable claims and that several of his claims appear to be otherwise barred. (Id.		
28	at 5.) Plaintiff was provided with the applicable legal standards so that he could determine if he		
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1	would like to pursue his case. (Id.) Plaintiff was also advised that any amended complaint must		
2	include a request for relief as the 1AC did not identify any relief he is seeking. (Id.) Finally,		
3	Plaintiff was warned that he would only be provided one more opportunity to amend his		
4	complaint. (<i>Id.</i> at 2.)		
5	On August 1, 2016, Plaintiff filed a Second Amended Complaint ("2AC"). (Doc. 23.) The		
6	Magistrate Judge screened the 2AC pursuant to its authority in 28 U.S.C. § 1915(e)(2) on		
7	December 12, 2016 and filed Findings and Recommendations recommending that the 2AC		
8	proceed under 42 U.S.C. § 1983 only on Plaintiff's unlawful arrest (claims 4-5) and excessive		
9	force claims (claims 2 and 6) against defendants Matthew and Sturgeon. (ECF No. 24 at 9.) The		
10	Magistrate Judge further recommended that all remaining claims and defendants be dismissed.		
11	(Id.) This was served on Plaintiff that same day and contained notice that any objections were to		
12	be filed within twenty days. (Id.) Plaintiff did not file objections to the Findings and		
13	Recommendations within twenty days.		
14	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a		
15	de novo review of this case. Having carefully reviewed the entire file, the Court finds the		
16	Findings and Recommendations to be supported by the record and by proper analysis.		
17	Accordingly, it is HEREBY ORDERED that:		
18	1. The Findings and Recommendations, filed December 12, 2016 (Doc. 24), are		
19	adopted in full;		
20	2. This action proceed under 42 U.S.C. § 1983 only on Plaintiff's unlawful arrest		
21	(claims 4-5) and excessive force claims (claims 2 and 6) against defendants		
22	Matthew and Sturgeon; and		
23	3. All remaining claims and defendants are dismissed from this action as follows:		
24	a. Claim 1 for conspiracy to commit malicious prosecution under 42 U.S.C. §		
25	1983 against Matthew and Sturgeon is DISMISSED with prejudice;		
26	b. Claim 3 for malicious prosecution under 42 U.S.C. § 1983 against Matthew		
27	and Sturgeon is DISMISSED with prejudice;		
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1	c. Claims 7 and 11 for ineffective assistance of counsel under 42 U.S.C. § 1983
2	against Sabrina Ashjian and Gary Shinaver are DISMISSED with prejudice;
3	d. Claims 8 and 10 for deprivation of due process under 42 U.S.C. § 1983 against
4	Ashjian and Shinaver are DISMISSED with prejudice; and
5	e. Claim 9 for legal malpractice under state law against Ashjian and Shinaver is
6	DISMISSED without prejudice.
7	IT IS SO ORDERED.
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9	Dated: January 12, 2017 /s/ Lawrence J. O'Neill UNITED STATES CHIEF DISTRICT JUDGE
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