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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 REAMEL CURTIS,

12 Plaintiff,

13 vs.

14 KELLI HARRINGTON, *et al.*,

15 Defendants.
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1:14-cv-00553-LJO-EPG-PC

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANTS
GONZALEZ AND MARTINEZ ON
PLAINTIFF'S DENIAL OF ACCESS TO
COURTS CLAIMS AND THAT ALL OTHER
CLAIMS AND DEFENDANTS BE
DISMISSED

**OBJECTIONS, IF ANY, DUE IN TWENTY
DAYS**

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19 Curtis Reamel ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
20 with this civil rights action pursuant to 42 U.S.C. § 1983. On April 10, 2015, Plaintiff filed the
21 Complaint commencing this action. (ECF No. 1.) On April 12, 2016, this Court issued a
22 screening order finding no cognizable claims and giving leave to amend. (ECF No. 9.) On June
23 17, 2016, Plaintiff filed a First Amended Complaint. (ECF No. 12)

24 The Court screened Plaintiff's First Amended Complaint pursuant to 28 U.S.C. § 1915A
25 and found that it states cognizable claims against Defendants Gonzalez and Burgarin. (ECF
26 No. 13.) On September 9, 2016, Plaintiff was told to either notify the Court that he is willing to
27 proceed only on the claims found cognizable by the Court or to notify the Court that he does
28 not agree to proceed only on the cognizable claims, subject to a recommendation that the non-

1 cognizable claims be dismissed from the action. *Id.* On September 26, 2016, Plaintiff filed a
2 notice informing the Court that he is willing to proceed only on the cognizable Eighth
3 Amendment claim for failure to protect against defendants Gonzalez and Burgarin. (ECF No.
4 14.)

5 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 6 1. This action proceed only against defendants Gonzalez and Burgarin on
7 Plaintiff's failure to protect claim;
- 8 2. All remaining claims and defendants be dismissed from this action; and
- 9 3. Plaintiff's claim for excessive force be dismissed from this action based on
10 Plaintiff's failure to state a claim.

11 These Findings and Recommendations will be submitted to the United States District
12 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
13 **twenty (20)** days after being served with these Findings and Recommendations, Plaintiff may
14 file written objections with the Court. The document should be captioned "Objections to
15 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
16 objections within the specified time may waive the right to appeal the District Court's order.
17 *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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19 IT IS SO ORDERED.

20 Dated: September 28, 2016

21 /s/ Eric P. Grogan
22 UNITED STATES MAGISTRATE JUDGE
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