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4 UNITED STATES DISTRICT COURT  
5 EASTERN DISTRICT OF CALIFORNIA  
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7 BRIAN CAPUTO,

8 Plaintiff,

9 v.

10 GONZALES, et al.,

11 Defendants.  
12

Case No. 1:15-cv-01008-LJO-EPG (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(ECF NOS. 43, 44, & 81)

13 Brian Caputo ("Plaintiff") is a prisoner<sup>1</sup> proceeding *pro se* and *in forma pauperis* in this  
14 civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United  
15 States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

16 On March 22, 2018, Magistrate Judge Erica P. Grosjean entered findings and  
17 recommendations, recommending that all claims and defendants be dismissed, except for  
18 Plaintiff's claims for violation of his Fourteenth Amendment due process rights against  
19 defendant Black and Doe Defendant(s), for retaliation in violation of the First Amendment  
20 against defendant Gonzalez, and for excessive force in violation of the Fourteenth Amendment  
21 against defendant Gonzalez. (ECF No. 81, p. 9).

22 The parties were provided an opportunity to file objections to the findings and  
23 recommendations. The deadline to file objections has passed, and no objections have been  
24 filed.

25 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this  
26 Court has conducted a de novo review of this case. Having carefully reviewed the entire file,  
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28 <sup>1</sup> Plaintiff was detained at Kern County Jail at the time of the incidents alleged in the complaint. He is  
now incarcerated at FCI Marianna.

1 the Court finds the findings and recommendations to be supported by the record and proper  
2 analysis.

3 Accordingly, THE COURT HEREBY ORDERS that:

- 4 1. The findings and recommendations issued by the magistrate judge on March 22,  
5 2018, are ADOPTED IN FULL;
- 6 2. All claims and defendants are dismissed, except for Plaintiff's claims for violation  
7 of his Fourteenth Amendment due process rights against defendant Black and Doe  
8 Defendant(s), for retaliation in violation of the First Amendment against defendant  
9 Gonzalez, and for excessive force in violation of the Fourteenth Amendment against  
10 defendant Gonzalez; and
- 11 3. This case is referred back to the magistrate judge for further proceedings.

12 IT IS SO ORDERED.  
13

14 Dated: April 25, 2018

/s/ Lawrence J. O'Neill  
UNITED STATES CHIEF DISTRICT JUDGE