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1 2 3 4 5 6 7 8 9 UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA 10 11 12 GEORGE JACKSON, CASE No. 1:16-cv-0148 DAD MJS (PC) 13 Plaintiff, FINDINGS AND RECOMMENDATIONS 14 (1) FOR SERVICE OF COGNIZABLE ٧. **EIGHTH AMENDMENT CLAIM AGAINST** 15 R. DAVIS, et al., **DEFENDANT JOHNSON; AND** 16 Defendants. (2) TO DISMISS ALL OTHER CLAIMS 17 AND DEFENDANTS WITH PREJUDICE 18 (ECF NOS. 13, 17) 19 **FOURTEEN-DAY DEADLINE** 20 21 22 23 24 25 26 27

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. On December 12, 2016, Plaintiff's Second Amended Complaint was screened and found to state an Eighth Amendment claim against Defendant Johnson. (ECF No. 17.) Plaintiff was directed to file a Third Amended Complaint or a notice of his willingness to proceed with the cognizable claim and dismiss all other claims and Defendants. Plaintiff has now filed a notice of his willingness to proceed on the Second Amended Complaint as screened. (ECF No. 18.)

Accordingly, IT IS HEREBY RECOMMENDED that:

- Plaintiff proceed on his Eighth Amendment claim against Defendant Johnson;
- 2. All other claims asserted in the Second Amended Complaint and all other named Defendants be dismissed with prejudice;
- 3. Service be initiated on Defendant **P. JOHNSON**;
- The Clerk of the Court should send Plaintiff one (1) USM-285 forms, one
 (1) summons, a Notice of Submission of Documents form, an instruction sheet and a copy of the Second Amended Complaint filed August 15, 2016;
- 5. Within thirty (30) days from the date of adoption of these findings and recommendations, Plaintiff should complete and return to the Court the notice of submission of documents along with the following documents:
 - a. Completed summons,
 - b. One completed USM-285 form for each Defendant listed above,
 - c. Two (2) copies of the endorsed complaint filed August 15, 2016; and
- 6. Upon receipt of the above-described documents, the Court should direct the United States Marshal to serve the above-named Defendants pursuant to Federal Rule of Civil Procedure 4 without payment of costs.

These findings and recommendations will be submitted to the United States

District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. §

636(b)(1). Within fourteen (14) days after being served with the findings and
recommendations, the parties may file written objections with the Court. The document
should be captioned "Objections to Magistrate Judge's Findings and Recommendation."

A party may respond to another party's objections by filing a response within fourteen

(14) days after being served with a copy of that party's objections. The parties are
advised that failure to file objections within the specified time may result in the waiver of

1	rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing <u>Baxter</u>	
2	<u>v. Sullivan,</u> 923 F.2d 1391, 1394 (9th Cir. 1991)).	
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4	4 IT IS SO ORDERED.	
5	Dated: January 19, 2017 Isl Michael J. Ser.	na
6		 ΓΕ JUDGE
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