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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONICO J. QUIROGA III,
Plaintiff,
v.
SERGEANT GRAVES, et al.,
Defendant.

No. 1:16-cv-00234-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 47)

Plaintiff Monico J. Quiroga III is a prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On October 15, 2018, the assigned magistrate judge issued findings and recommendations, recommending that: (1) plaintiff’s fourth amended complaint proceed against defendant Fuentes for violation of plaintiff’s due process rights under the Fourteenth Amendment; and (2) all other claims and defendants be dismissed from this action for failure to state a claim. (Doc. No. 47.) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 13.) On October 29, 2018, plaintiff filed a notice of his willingness to proceed on the due process claim and requested a copy of the fourth amended complaint. (Doc. No. 48.)

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the undersigned has
2 conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
3 undersigned concludes that the findings and recommendations are supported by the record and
4 proper analysis.

5 Accordingly,

- 6 1. The findings and recommendations filed on October 15, 2018 (Doc. No. 47) are
7 adopted in full;
- 8 2. This action now proceeds only against defendant Fuentes and only for violation of
9 plaintiff's due process rights under the Fourteenth Amendment;
- 10 3. Plaintiff's claims for excessive force, retaliation, and deliberate indifference to
11 safety are dismissed for failure to state a claim;
- 12 4. Plaintiff's claim for injunctive relief is dismissed;
- 13 5. Plaintiff's claim for declaratory relief is dismissed;
- 14 6. Defendants Gause and Graves are dismissed from this case based on plaintiff's
15 failure to state a cognizable claim against either;
- 16 7. The Clerk of the Court is directed to mail to plaintiff a copy of the fourth amended
17 complaint (Doc. No. 45) when service of process is initiated; and
- 18 8. This case is referred back to the assigned magistrate judge for further proceedings,
19 including initiation of service of process.

20 IT IS SO ORDERED.

21 Dated: December 18, 2018

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24 UNITED STATES DISTRICT JUDGE
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