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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

SIMON THORNTON,  
  
  Plaintiff,  
  
                  v.  
  
DONALD L. GRISSOM, et al.,  
  
  Defendants.

CASE NO. 1:16-cv-0498-AWI-MJS (PC)  
  
**FINDINGS AND RECOMMENDATIONS  
TO DISMISS NON-COGNIZABLE CLAIMS  
WITH PREJUDICE**  
  
**(ECF NOS. 9, 18)**  
  
**FOURTEEN DAY OBJECTION DEADLINE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On October 4, 2016, Plaintiff’s First Amended Complaint (ECF No. 9) was screened and found to state a cognizable Eighth Amendment excessive force claim against Defendant Grissom and an Eighth Amendment failure to protect claim against Defendant Cruz. (ECF No. 18.) However, the Court concluded that all other claims and Defendants were subject to dismissal.

Plaintiff was then directed to file a notice of his willingness to proceed on the pleading as screened or to file a Second Amended Complaint. Plaintiff has now filed a notice of his willingness to proceed on the First Amended Complaint as screened. (ECF No. 20.)

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Accordingly, IT IS HEREBY RECOMMENDED that:

1. Plaintiff proceed on an Eighth Amendment excessive force claim against Defendant Grissom and an Eighth Amendment failure to protect claim against Defendant Cruz; and
2. All other claims and Defendants be dismissed with prejudice.

The 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 Recommendations." 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 rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: November 7, 2016

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE