

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRISTAIN CROWDER,

 Plaintiff,

 v.

A. CASTILLO, SGT. E. GONZALEZ, LT.
C. DAVIS, and P. IBARRA,

 Defendants.

No. 1:16-cv-00851-DAD-MJS

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS FOR SERVICE OF
COGNIZABLE CLAIMS AND TO DISMISS
ALL OTHER CLAIMS WITH PREJUDICE

(Doc. No. 14)

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. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the United States District Court for the Eastern District of California.

On November 8, 2016, the assigned magistrate judge issued findings and recommendations, recommending service of plaintiff’s cognizable Eighth Amendment claims against defendants Castillo, Gonzalez, Ibarra and Diaz, and dismissal of all other claims with prejudice. (Doc. No. 14.) The findings and recommendations provided plaintiff with fourteen days within which to file objections thereto. (*Id.*) Plaintiff has filed no objections to the findings and recommendations and the time for doing so has passed.

/////

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

4 Based on the foregoing,

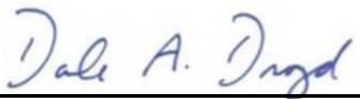
- 5 1. The November 8, 2016 findings and recommendations (Doc. No. 14) are adopted in
6 full;
- 7 2. This action shall proceed on plaintiff's Eighth Amendment excessive use of force
8 claim against defendant Castillo, and her Eighth Amendment failure to protect claim
9 against defendants Gonzalez, Ibarra, and Diaz;
- 10 3. All other claims asserted in plaintiff's first amended complaint, and all other named
11 defendants are dismissed from this action with prejudice,
- 12 4. Service shall be initiated on the following defendants:
 - 13 **A. CASTILLO** – Correctional Officer at North Kern State Prison (“NKSP”)
 - 14 **E. GONZALEZ** – Correctional Sergeant at NKSP
 - 15 **P. IBARRA** – Correctional Officer at NKSP
 - 16 **DIAZ** – Correctional Officer at NKSP
- 17 5. The Clerk of the Court is directed to send plaintiff four (4) USM-285 forms, four (4)
18 summons, a Notice of Submission of Documents form, an instruction sheet and a copy
19 of the first amended complaint filed September 19, 2016;
- 20 6. Within thirty (30) days from the date of this order, plaintiff shall complete and return
21 to the court the Notice of Submission of Documents along with the following
22 documents:
 - 23 a. One completed summons for each defendant listed above,
 - 24 b. One completed USM-285 form for each Defendant listed above,
 - 25 c. Five (6) copies of the endorsed first amended complaint filed September 19,
26 2016;
- 27 7. Plaintiff need not attempt service on defendants and need not request waiver of
28 service. Upon receipt of the above-described documents, the court shall direct the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States Marshals Service to serve the above-named defendants pursuant to Rule 4 of the Federal Rules of Civil Procedure without payment of costs; and
8. Failure to comply with this order will result in dismissal of this action.

IT IS SO ORDERED.

Dated: January 6, 2017


UNITED STATES DISTRICT JUDGE