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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JORGE CORENA,
Plaintiff,
v.
RODRIGUEZ, et al.,
Defendants.

No. 1:16-cv-01025-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(Doc. No. 22)

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action 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 December 8, 2017, the assigned magistrate judge re-screened plaintiff's second amended complaint, recognizing that a recent Ninth Circuit opinion, *Williams v. King*, 875 F.3d 500 (9th Cir. 2017), had held that a magistrate judge does not have jurisdiction to dismiss claims with prejudice absent the consent of all parties, even if the plaintiff has consented to magistrate judge jurisdiction, as plaintiff had. (Doc. No. 22.) Concurrently, the magistrate judge entered findings and recommendations recommending that all claims and defendants, except for plaintiff's claims against defendants Rodriguez, Cerveza, and Doe for excessive use of force in violation of the Eighth Amendment, against the Doe defendant for failure to protect in violation of the Eighth Amendment, and against defendants Rodriguez and Doe for retaliation in violation

1 of the First Amendment, be dismissed for failure to state a claim. (*Id.* at 16.) The parties were
2 provided an opportunity to file objections to the findings and recommendations within fourteen
3 days. No objections were filed and the time for doing so has passed.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, this
5 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
6 undersigned concludes the findings and recommendations are supported by the record and proper
7 analysis.

8 Accordingly:

- 9 1. The findings and recommendations issued December 8, 2017 (Doc. No. 22) are
10 adopted in full;
- 11 2. This action shall continue to proceed only on plaintiff's claims against defendants
12 Rodriguez, Cerveza, and Doe for excessive force in violation of the Eighth
13 Amendment, against the Doe defendant for failure to protect in violation of the Eighth
14 Amendment, and against defendants Rodriguez and Doe for retaliation in violation of
15 the First Amendment;
- 16 3. All other claims and defendants are dismissed for failure to state a claim; and
- 17 4. This case is referred back to the magistrate judge for further proceedings.

18 IT IS SO ORDERED.

19 Dated: January 19, 2018

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22 UNITED STATES DISTRICT JUDGE
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