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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL JACQUES,

 Plaintiff,

 v.

J. LOPEZ, JR., et al.,

 Defendants.

No. 1:16-cv-01289-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING IN
PART, DENYING IN PART DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

(Doc. Nos. 37, 43)

Plaintiff Michael Jacques is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This 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 17, 2018, defendants moved for summary judgment under Federal Rule of Civil Procedure 56. (Doc. No. 37.) On August 2, 2019, the assigned magistrate judge issued findings and recommendations recommending that the motion for summary judgment filed on behalf of defendants Athie, Garza, Lopez, Razo, and Vasquez with respect to plaintiff’s claims for excessive force and failure to intervene in violation of the Eighth Amendment be denied, and that the motion for summary judgment filed on behalf of defendant Aro with respect to plaintiff’s claim for deliberate indifference to serious medical needs in violation of the Eighth Amendment be granted. (Doc. No. 43.) The findings and recommendations were served on the parties and

1 contained notice that any objections thereto were to be filed within twenty-one (21) days after
2 service. (*Id.* at 25.) More than twenty-one days have passed since the findings and
3 recommendations were served, and no objections have been filed.

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

7 Accordingly,

- 8 1. The findings and recommendations issued on August 2, 2019, (Doc. No. 43), are
9 adopted in full and defendants' motion for summary judgment (Doc. No. 37) is
10 granted in part and denied in part;
 - 11 a. The motion for summary judgment filed on behalf of defendants Athie, Garza,
12 Lopez, Razo, and Vasquez with respect to plaintiff's claims for excessive force
13 and failure to intervene in violation of the Eighth Amendment (Doc. No. 37), is
14 denied;
 - 15 b. The motion for summary judgment filed on behalf of defendant Aro with
16 respect to plaintiff's claim for deliberate indifference to serious medical needs
17 in violation of the Eighth Amendment (Doc. No. 37), is granted;
- 18 2. This matter shall now proceed only on plaintiff's Eighth Amendment claims for
19 excessive force against defendants Athie, Garza, Lopez, and Razo, and for failure
20 to intervene against defendant Vasquez;
- 21 3. Judgment shall be entered in favor of defendant Aro as to plaintiff's claim for
22 deliberate indifference to serious medical needs in violation of the Eighth
23 Amendment against that defendant; and
- 24 4. This action is referred back to the assigned magistrate judge for further
25 proceedings.

26 IT IS SO ORDERED.

27 Dated: September 30, 2019

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UNITED STATES DISTRICT JUDGE

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