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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GREGORY ELL SHEHEE,
Plaintiff,
v.
PEREZ, et al.,
Defendants.

Case No. 1:16-cv-01346-AWI-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS
(ECF No. 39)

Plaintiff Gregory Ell Shehee (“Plaintiff”) is a former county jail inmate proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The incidents at issue in this litigation occurred while Plaintiff was housed in Coalinga State Hospital, where he was civilly committed.

On December 4, 2017, the assigned Magistrate Judge screened Plaintiff’s first amended complaint under 28 U.S.C. § 1915A, and found that it stated a cognizable claim for excessive force in violation of the Due Process Clause of the Fourteenth Amendment against Defendant Faith Perez for the purported two incidents which occurred in November 2014 and the one incident on February 8, 2015, and a cognizable claim for failure to protect in violation of the Due Process Clause of the Fourteenth Amendment against Defendant Lain, but failed to state any other cognizable claims against any other defendants. The Court ordered Plaintiff to either file a second amended complaint or notify the Court of his willingness to proceed only on the

1 cognizable claims. (ECF No. 31.) Following several extensions of time, on February 23, 2018,
2 Plaintiff requested that the Court proceed on the claims against Defendants Perez and Lain. (ECF
3 No. 38.)

4 On February 28, 2018, the Magistrate Judge issued findings and recommendations that:
5 (1) this action proceed on Plaintiff's first amended complaint, filed on October 30, 2017, for
6 excessive force in violation of the Fourteenth Amendment against Defendant Perez and for failure
7 to protect in violation of the Fourteenth Amendment against Defendant Lain; and (2) all other
8 claims and Defendants be dismissed based on Plaintiff's failure to state claims upon which relief
9 may be granted. (ECF No. 39.) The findings and recommendations were served on Plaintiff and
10 contained notice that any objections were to be filed within fourteen (14) days after service. (Id.
11 at 12–13.)

12 Pursuant to two notices of changes in Plaintiff's address, the findings and
13 recommendations were re-served on Plaintiff at his new address on March 8, 2018, and again on
14 April 5, 2018. (See ECF Nos. 41, 42, 43.) No objections have been filed, and the deadline in
15 which to do so has expired.

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

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The findings and recommendations issued on February 28, 2018, (ECF No. 39), are
21 adopted in full;
- 22 2. This action shall proceed on Plaintiff's first amended complaint, filed October 30,
23 2017, (ECF No. 30), for excessive force in violation of the Fourteenth Amendment
24 against Defendant Perez and for failure to protect in violation of the Fourteenth
25 Amendment against Defendant Lain;
- 26 3. All other claims and Defendants are dismissed based on Plaintiff's failure to state
27 claims upon which relief may be granted; and

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4. This action is referred back to the assigned Magistrate Judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: May 9, 2018



SENIOR DISTRICT JUDGE