1 2 3 4 5 6 7 **UNITED STATES DISTRICT COURT** 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 Case No.: 1:16-cv-01439-LJO-BAM (PC) MICHAEL A. WASHINGTON, 12 ORDER ADOPTING FINDINGS AND Plaintiff, RECOMMENDATIONS, DISMISSING 13 CERTAIN CLAIMS AND DEFENDANTS VS. 14 [Doc. No. 23] R. HERNANDEZ, et al., 15 Defendants. 16 17 18 Plaintiff Michael A. Washington is a state prisoner proceeding pro se and in forma 19 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October 28, 2016, Plaintiff 20 consented to the jurisdiction of a United States Magistrate Judge. (Doc. No. 8.) On September 21 18, 2017, after being served in this matter, Defendants Chambers, Denney, Hernandez, Stane and 22 Stinson declined to Magistrate Judge jurisdiction. (Doc. No. 18.) 23 On May 25, 2017, the assigned magistrate judge screened Plaintiff's complaint pursuant 24 to 28 U.S.C. § 1915A and 28 U.S.C. § 1915(e)(2)(B), and found that it stated a claim for excessive force in violation of the Eighth Amendment against Defendants Chambers, Denney, 25 26 Hernandez, Stane, and Stinson. (Doc. No. 9.) Plaintiff was provided an opportunity to amend

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the complaint, or to notify the Court that he wished to proceed only on the cognizable claims

identified in the screening order. Following Plaintiff's written notification that he would not

amend his complaint, the magistrate judge dismissed all other claims and defendants, with prejudice, for the failure to state a claim. (Doc. No. 12.) The case then proceeded on Plaintiff's cognizable claims.

On December 15, 2017, the magistrate judge reinstated Plaintiff's previously dismissed claims, 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 in screening prisoner complaints even if a plaintiff has consented to magistrate judge jurisdiction, as plaintiff had here. (Doc. No. 23.) Concurrently, the magistrate judge issued findings and recommendations recommending that the undersigned dismiss those reinstated claims. (*Id.*) Plaintiff was given fourteen days to file his objections to those findings and recommendations. That deadline has passed, and no objections were filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the undersigned has conducted a de novo review of Plaintiff's case. The undersigned concludes the findings and recommendations are supported by the record and by proper analysis.

Accordingly, it is HEREBY ORDERED that:

- 1. The findings and recommendations dated December 15, 2017 (Doc. No. 23), are adopted in full;
- 2. Defendant Chanelo is dismissed for the failure to state a claim upon which relief may be granted; and
- 3. This action proceeds solely on Plaintiff's claim for excessive force in violation of the Eighth Amendment against Defendants Hernandez, Stane, Stinson, Chambers, and Denney.

24 | IT IS SO ORDERED.

Dated: January 11, 2018 /s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE