1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 DEMAREALE TURNER, No. 1:16-cv-01643 12 Plaintiff. 13 v. RECOMMENDATIONS AND DISMISSING 14 ADMINISTRATIVE SECURITY **CERTAIN CLAIMS AND DEFENDANTS** PERSONELL, et al., 15 (Doc. No. 44) Defendants. 16 17 Plaintiff Demareale Turner is appearing pro se and in forma pauperis in this civil rights 18 action pursuant to 42 U.S.C. § 1983. Plaintiff consented to magistrate judge jurisdiction on 19 November 30, 2016. (Doc. No. 11.) To date, defendants have not consented or declined to 20 United State magistrate judge jurisdiction. 21 On April 17, 2017, the magistrate judge found that plaintiff's complaint stated a 22 cognizable claim for excessive use of force against defendants Robles and Hernandez. (Doc. No. 17.) The magistrate judge dismissed all other claims and defendants from the action for failure to 23 24 state a cognizable claim for relief. (Id.) The magistrate judge indicated that jurisdiction existed under 28 U.S.C. § 636(c) to do so by order based on the fact that plaintiff had consented to 25 26 magistrate judge jurisdiction and no other parties had yet appeared. (*Id.*) 27 However, on November 9, 2017, the Ninth Circuit Court of Appeals held that 28 U.S.C. 28 § 636(c)(1) requires the consent of all named plaintiffs and defendants, even those not served

1 with process, before jurisdiction may vest in a magistrate judge to dispose of a civil case. 2 Williams v. King, 875 F.3d 500, 504 (9th Cir. 2017). Accordingly, the magistrate judge did not 3 have jurisdiction to dismiss the above-described claims by way of the April 17, 2017 order. 4 Therefore, on November 30, 2017, the magistrate judge issued findings and recommendations 5 recommending that this action proceed on plaintiff's claim of excessive use of force against 6 defendants Robles and Hernandez and that all other claims and defendants be dismissed for 7 failure to state a cognizable claim for relief. The findings and recommendations were served on 8 the parties and contained notice that objections were to be filed within fourteen days. No 9 objections were filed and the time period in which to do so has expired. 10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the 11 undersigned has conducted a de novo review of the case. The undersigned concludes the findings 12 and recommendations are supported by the record and by proper analysis. 13 Given the foregoing, 14 1. The November 30, 2017 findings and recommendations (Doc. No. 44) are adopted in full; 15 2. This action proceeds against defendants Robles and Hernandez on plaintiff's excessive 16 use of force claim; and 17 3. All other claims and defendants are dismissed from the action for failure to state a 18 cognizable claim for relief. 19 IT IS SO ORDERED. 20 Dated: January 7, 2018 21 22 23 24

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