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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 CARLOS BURNETT,

12 Plaintiff,

13 vs.

14 K. SEDILLO, et al.,

15 Defendants.
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1:16-cv-01672-LJO-GSA-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS
(ECF No. 14.)

ORDER FOR THIS ACTION TO PROCEED
ONLY AGAINST DEFENDANTS MEIER,
REYNAGA, HUCKLEBERRY, GARCIA, AND
DYER, FOR USE OF EXCESSIVE FORCE IN
VIOLATION OF THE EIGHTH
AMENDMENT, AND DISMISSING ALL
OTHER CLAIMS AND DEFENDANTS

20 Carlos Burnett (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis*
21 with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
22 commencing this action on November 3, 2016. (ECF No. 1.) The matter was referred to a
23 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

24 On September 25, 2017, the court entered findings and recommendations,
25 recommending that this action proceed only against defendants Meier, Reynaga, Huckleberry,
26 Garcia, and Dyer, for use of excessive force in violation of the Eighth Amendment, and that all
27 remaining claims and defendants be dismissed from this action. (ECF No. 14.) Plaintiff was
28 provided an opportunity to file objections to the findings and recommendations within fourteen

1 days. The fourteen-day deadline has passed, and Plaintiff has not filed objections or otherwise
2 responded to the findings and recommendations.

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

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The findings and recommendations entered by the Magistrate Judge on
9 September 25, 2017, are ADOPTED in full;
- 10 2. This action now proceeds with Plaintiff's original Complaint, filed on
11 November 3, 2016, against defendants Meier, Reynaga, Huckleberry, Garcia,
12 and Dyer, for use of excessive force in violation of the Eighth Amendment;
- 13 3. All remaining claims and defendants are DISMISSED from this action;
- 14 4. Plaintiff's claims for violation of due process, failure to protect him, and
15 retaliation are DISMISSED from this action based on Plaintiff's failure to state a
16 claim;
- 17 5. Defendants Sedillo, Davidson, and Nuckles are DISMISSED from this action
18 for Plaintiff's failure to state any cognizable claims against them;
- 19 6. The Clerk is DIRECTED to reflect the dismissal of defendants Sedillo,
20 Davidson, and Nuckles on the court's docket; and
- 21 7. This case is referred back to the Magistrate Judge for further proceedings,
22 including service of process.

23
24 IT IS SO ORDERED.

25 Dated: October 30, 2017

26 /s/ Lawrence J. O'Neill
27 UNITED STATES CHIEF DISTRICT JUDGE
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