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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JONATHAN W. MUNDO
Plaintiff,
v.
HECTOR CARMONA, et al.,
Defendant.

CASE NO. 1:16-cv-01687-AWI-MJS (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS NON-
COGNIZABLE CLAIMS AND
DEFENDANTS**

(ECF No. 17)

**CLERK TO TERMINATE DEFENDANTS
CAMPA AND CRIBBS**

Plaintiff is a prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 27, 2017, the Magistrate Judge assigned to the case screened Plaintiff's first amended complaint and found it stated cognizable claims against Defendants Carmona and Alba for excessive force in violation of the Eighth Amendment and assault

1 and battery in violation of state law, against Carmona, Bonffil, and Archuleta for
2 retaliation in violation of the First Amendment, and against Bonffil and Archuleta in
3 violation of the Bane Act. (ECF No. 17.) The Magistrate Judge found Plaintiff stated no
4 other cognizable claims, and that further leave to amend would be futile. Accordingly, the
5 Magistrate Judge authorized service of Plaintiff's complaint on Defendants Carmona,
6 Alba, Bonffil, and Archuleta. He recommended dismissing Plaintiff's remaining claims
7 and Defendants Campa and Cribbs, and granted Plaintiff fourteen days to file his
8 objections. The fourteen day deadline passed and no objections were filed.

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

13
14 Accordingly, it is HEREBY ORDERED that:

- 15 1. The Court adopts the findings and recommendations filed on April 27, 2017
16 (ECF No. 17) in full;
- 17 2. This case shall proceed with against the following Defendants on the
18 following claims:
 - 19 a. Carmona for Eighth Amendment excessive force, First Amendment
20 retaliation and state law assault and battery;
 - 21 b. Alba for Eighth Amendment excessive force and state law assault and
22 battery;
 - 23 c. Bonffil for First Amendment retaliation and violation of the California
24 Bane act;
 - 25 d. Archuleta for First Amendment retaliation and violation of the California
26 Bane act;
- 27 3. All other claims are non-cognizable and DISMISSED with prejudice for
28 failure to state a claim;

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4. The Clerk of Court is directed to TERMINATE Defendants Campa and Cribbs; and
5. This case is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: June 14, 2017



SENIOR DISTRICT JUDGE