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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 MICHAEL GONZALES,

12 Plaintiff,

13 v.

14 FERRSO et al,

15 Defendants.

Case No. 1:16-cv-01813-EPG (PC)

ORDER DIRECTING RESPONSE FROM
DEFENDANTS

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17 Michael Gonzales (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
18 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The Court screened Plaintiff’s
19 civil rights complaint on March 10, 2017 and found that the complaint states a claim for forcible
20 medication in violation of the Due Process Clause of the Fourteenth Amendment against
21 Defendants Garcia, Brosman, B. Zavala, Herrick, Tacara, Franklin, Rodriguez, Escalante and
22 Davis. (ECF No. 14). The Court also found that Plaintiff did not state any other claim based on
23 the grievance process. (*Id.*)

24 On July 5, 2017, Defendants Brosman, Davis, Escalante, Garcia, Herrick, Rodriguez,
25 Tacara, and B. Zavala filed a motion to dismiss. (ECF No. 25). In the motion, Defendants ask
26 the Court to dismiss both the due process claim that the claim found cognizable on March 10,
27 2017, and Plaintiff’s claim related to grievance procedure that the Court found was not
28 cognizable in the screening order. The motion to dismiss also makes no mention of the Court’s

1 screening order, which evaluated Plaintiff's complaint under the same legal standard as a Rule
2 12(b)(6) motion to dismiss.

3 Because Defendants are asking the Court to dismiss at least one claim that it has already
4 found non-cognizable, it appears to the Court that Defendants may not have had the benefit of
5 the Court's March 10, 2017 screening order when they drafted the motion to dismiss.

6 Accordingly, the Court ORDERS as follows:

- 7 1. Defendants are directed to review the Court's March 10, 2017 screening order. (ECF
8 No. 14).
- 9 2. Defendants are directed to file a response to this order within 7 days indicating
10 whether they still intend to proceed on the motion to dismiss (ECF No. 25), or
11 alternatively whether they withdraw that motion.

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13 IT IS SO ORDERED.

14 Dated: August 29, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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