

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODNEY C. BUCKLEY, JR.,
Plaintiff,
v.
JOHNSON, et al.,
Defendants.

Case No. 1:17-cv-00102-LJO-BAM (PC)
ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS
(ECF No. 16)

Plaintiff Rodney C. Buckley, Jr. (“Plaintiff”), is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On May 4, 2018, the Magistrate Judge screened Plaintiff’s first amended complaint under 28 U.S.C. § 1915A, and found that it stated the following cognizable claims: (1) excessive force in violation of the Eighth Amendment against Defendants B. Johnson, Correctional Officer, and R. Zamora, Correctional Officer, for the incident on or about January 22, 2013; (2) failure to protect in violation of the Eighth Amendment against Defendant Gutierrez, Correctional Officer, who was at the podium, Defendant A. Rocha, who was in the control booth, and Defendant John Doe, who was in the floor staff’s office, and saw the assault and refused to intervene in the incident on or about January 22, 2013; and (3) a claim for retaliation in violation of the First Amendment against Defendant J. Gonzales, Correction Lieutenant, for placing Plaintiff in Ad-seg on or about January 23, 2013. (ECF No. 16.) The Magistrate Judge recommended that all other

1 claims and defendants be dismissed based on Plaintiff's failure be dismissed for failure to state
2 claims upon which relief may be granted. Those findings and recommendations were served on
3 Plaintiff and contained notice that any objections thereto were to be filed within fourteen (14)
4 days after service. (Id.) No objections have been filed, and the deadline in which to do so has
5 expired.

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

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations issued on May 4, 2018, (ECF No. 16), are adopted
11 in full;
- 12 2. This action shall proceed on Plaintiff's first amended complaint, filed November 27,
13 2017, (ECF No. 14), for: (1) excessive force in violation of the Eighth Amendment
14 against Defendants B. Johnson and R. Zamora for the incident on or about January 22,
15 2013; (2) failure to protect in violation of the Eighth Amendment against Defendants
16 Gutierrez, A. Rocha, and John Doe, who saw the assault and refused to intervene in
17 the incident on or about January 22, 2013; and (3) a claim for retaliation in violation of
18 the First Amendment against Defendant J. Gonzales, for placing Plaintiff in Ad-seg on
19 or about January 23, 2013;
- 20 3. All other claims and Defendants are dismissed, with prejudice, based on Plaintiff's
21 failure to state claims upon which relief may be granted; and
- 22 4. This action is referred back to the assigned Magistrate Judge for further proceedings
23 consistent with this order.

24
25 IT IS SO ORDERED.

26 Dated: May 30, 2018

/s/ Lawrence J. O'Neill
27 UNITED STATES CHIEF DISTRICT JUDGE
28