

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 LARRY WILLIAM CORTINAS,

12 Plaintiff,

13 vs.

14 M. HUERTA, et al.,

15 Defendants.  
16  
17  
18  
19  
20  
21

**1:17-cv-00130-AWI-GSA-PC**

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS  
(ECF No. 74.)**

**ORDER GRANTING DEFENDANT  
HUERTA'S MOTION FOR SUMMARY  
JUDGMENT  
(ECF No. 69.)**

**ORDER FOR CLERK TO ENTER  
JUDGMENT FOR DEFENDANT  
HUERTA**

**ORDER FOR CASE TO PROCEED  
ONLY AGAINST DEFENDANT SCALIA**

22 Larry William Cortinas ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*  
23 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a  
24 United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

25 On January 11, 2021, findings and recommendations were entered, recommending that  
26 defendant Huerta's motion for summary judgment, filed on July 6, 2020, be granted. (ECF No.  
27 74.) On January 25, 2021, Plaintiff filed objections to the findings and recommendations. (ECF  
28 No. 75.)

1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this  
2 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,  
3 including Plaintiff's objections, the court finds the findings and recommendations to be supported  
4 by the record and proper analysis. Plaintiff relies on allegations in his complaint, but fails to  
5 address the actual analysis of the Findings and Recommendation. The Court agrees with the  
6 Findings and Recommendation that Plaintiff's representations in the second summary judgment  
7 motion essentially abandoned the excessive force claim against Defendant Huerta. See Davis v.  
8 City of Las Vegas, 478 F.3d 1048, 1058 (9th Cir. 2007).

9 Accordingly, THE COURT HEREBY ORDERS that:

- 10 1. The findings and recommendations issued by the magistrate judge on January 11,  
11 2021, are ADOPTED IN FULL;
- 12 2. Defendant Huerta's motion for summary judgment, filed on July 6, 2020, is  
13 GRANTED;
- 14 3. The clerk is directed to enter judgment for defendant Huerta and dismiss him from  
15 this case;
- 16 4. This case shall proceed only against defendant Scalia, for use of excessive force  
17 in violation of the Eighth Amendment; and
- 18 5. This case shall be referred back to the magistrate judge for further proceedings.

19 IT IS SO ORDERED.

20 Dated: January 28, 2021

21   
22 \_\_\_\_\_  
23 SENIOR DISTRICT JUDGE  
24  
25  
26  
27  
28