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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

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7 CHRISTOPHER LIPSEY, JR.,) Case No.: 1:17-cv-00569-LJO-BAM (PC)
8 Plaintiff,)
9 vs.) ORDER ADOPTING FINDINGS AND
10 DR. REDDY, et al.,) RECOMMENDATIONS, (ECF No. 10), AND
11 Defendants.) DISMISSING CERTAIN CLAIMS FOR
12) IMPROPER VENUE AND JOINDER
13)
14) ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, (ECF No. 12), AND
DISMISSING CERTAIN CLAIMS FOR THE
FAILURE TO STATE A COGNIZABLE
CLAIM

15 Plaintiff Christopher Lipsey is a state prisoner proceeding *pro se* and *in forma pauperis* in
16 this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States
17 Magistrate Judge pursuant to 28 U.S.C. § 636(1)(B) and Local Rule 302.

18 On June 6, 2017, the Magistrate Judge issued findings and recommendations
19 recommending that Plaintiff's claims I-V, and IX be dismissed from this action, without
20 prejudice, due to improper venue and being improperly joined. (ECF No. 10.) The Findings and
21 Recommendations were served on Plaintiff and contained notice that any objections must be
22 filed within thirty days after service of that order. (*Id.* at 4.) Plaintiff's claims VI, VII and VIII
23 were also screened, and Plaintiff was granted an opportunity to amend them, (ECF No. 9), which
24 he subsequently declined, (ECF No. 11).

25 On June 19, 2017, the Magistrate Judge issued findings and recommendations
26 recommending that this action proceed only on Plaintiff's claim for excessive force in violation
27 of the Eighth Amendment against Defendants Hernandez, Celedon, and Mancilla for allegedly
28 attacking Plaintiff on March 21, 2016, and that Plaintiff's other claims against these Defendants

1 be dismissed for the failure to state a claim upon which relief may be granted. (ECF No. 12.)
2 The findings and recommendations were served on Plaintiff and contained notice that any
3 objections must be filed within fourteen days after service of that order. (Id. at 4.)

4 The deadlines for any objections to the foregoing findings and recommendations have
5 expired, and no objections have been filed. In accordance with the provisions of 28 U.S.C. §
6 636(b)(1)(C), this Court has conducted a *de novo* review of this case and carefully reviewed the
7 entire file. The Court finds that the findings and recommendations are supported by the record
8 and by proper analysis.

9 Based on the foregoing, IT IS HEREBY ORDERED that:

- 10 1. The findings and recommendations dated June 6, 2017 (ECF No. 10) are adopted
11 in full;
- 12 2. Plaintiff's claims against Dr. Reddy, MTA Smith, MTA Ortiz, Law Librarian
13 Kalil, Librarian Supervisor K. Spencer, and R. De la Rosa are dismissed, without
14 prejudice, for improper venue and as improperly joined;
- 15 3. This action proceeds on Plaintiff's claim against Defendants Hernandez, Celedon,
16 and Mancilla for excessive force in violation of the Eighth Amendment;
- 17 4. All other claims against Defendants Hernandez, Celedon, and Mancilla are
18 dismissed from this action based on Plaintiff's failure to state a claim upon which
19 relief may be granted; and
- 20 5. This matter is referred back to the assigned Magistrate Judge for proceedings
21 consistent with this order.

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23 IT IS SO ORDERED.

24 Dated: July 27, 2017

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