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8	UNITED ST.	ATES DISTRICT COURT
9	EASTERN DI	STRICT OF CALIFORNIA
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11	DEVONTE B. HARRIS,) Case No.: 1:17-cv-00640-DAD-SAB (PC)
12	Plaintiff,))) FINDINGS AND RECOMMENDATIONS
13	V.	 RECOMMENDING ACTION PROCEED ON PLAINTIFF'S EXCESSIVE FORCE AND
14	CONNIE GIPSON, et al.,	 RETALIATION CLAIMS AGAINST CERTAIN NAMED DEFENDANTS AND DISMISSING DEFENDANTS CURSON AND CATE FOR
15 16	Defendants.	 DEFENDANTS GIPSON AND CATE FOR FAILURE TO STATE A COGNIZABLE CLAIM FOR RELIEF
17)) [ECF Nos. 13, 14, 15]
18)
19	Plaintiff Devonte B. Harris is appear	ing pro se and in forma pauperis in this civil rights action
20	pursuant to 42 U.S.C. § 1983.	
21	On October 17, 2017, the Court scre	eened Plaintiff's first amended complaint and found that it
22	stated a cognizable excessive force claim a	against Defendants S. Briones, G. Torres, T. Silva and J.
23	Hernandez and a cognizable retaliation clai	m against Defendant J. Nail. (ECF No. 14.) Plaintiff was
24	ordered to amend his complaint to attempt to cure the deficiencies identified by the Court in that order,	
25	or notify the Court that he is agreeable to proceeding only on the claim identified as cognizable. (<u>Id.</u>)	
26	On October 27, 2017, Plaintiff notified the Court that he will not amend his complaint, and	
27	agrees to proceed only on the claim found t	o be cognizable in the Court's October 17, 2017 screening

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1	order. (ECF No. 15.) As a result, the Court will recommend that Defendants Matthew Cate and Gipson	
2	be dismissed from this action, and that it proceed only on the excessive force and retaliation claims	
3	identified above for the reasons stated in the Court's October 17, 2017 screening order. Fed. R. Civ. P.	
4	8(a); <u>Ashcroft v. Iqbal</u> , 556 U.S. 662, 678 (2009); <u>Bell Atlantic Corp. v. Twombly</u> , 550 U.S. 544, 555	
5	(2007); <u>Hebbe v. Pliler</u> , 627 F.3d 338, 342 (9th Cir. 2010).	
6	Accordingly, it is HEREBY RECOMMENDED that:	
7	1. This action only proceed on Plaintiff's claim against Defendants S. Briones, G. Torres,	
8	T. Silva and J. Hernandez for excessive force and against Defendant J. Nail for	
9	retaliation; and	
10	2. All other claims and Defendants be dismissed for failure to state a claim upon which	
11	relief could be granted.	
12	These Findings and Recommendations will be submitted to the United States District Judge	
13	assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within fourteen (14) days	
14	after being served with these Finding and Recommendations, Plaintiff may file written objections with	
15	the Court. The document should be captioned "Objections to Findings and Recommendations."	
16	Plaintiff is advised that failure to file objections within the specified time may result in the waiver of	
17	rights on appeal. <u>Wilkerson v. Wheeler</u> , 772 F.2d F.3d 834, 838-39 (9th Cir. 2014) (citing <u>Baxter v.</u>	
18	Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).	
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20	IT IS SO ORDERED.	
21	Dated: October 30, 2017	
22	UNITED STATES MAGISTRATE JUDGE	
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