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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARRION LARRY ALEXANDER,
Plaintiff,
v.
G. YBARRA, et al.,
Defendants.

No. 1:17-cv-00804-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 17)

Plaintiff Darrion Larry Alexander is appearing pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On November 21, 2017, the assigned magistrate judge screened the complaint and found that plaintiff stated a cognizable claim against defendants A. Johnson, G. Ybarra, E. Lopez, M. Garcia, E. Barron, O. Delgado, and T. Lee for excessive use of force in violation of the Eighth Amendment. (Doc. No. 14.) However, the magistrate judge found that plaintiff had not sufficiently alleged facts to state a cognizable claim for deliberate indifference to a serious medical need against defendant J. Presson. (*Id.*) Plaintiff was given the opportunity to amend the complaint or notify the court of his intent to proceed only on his excessive use of force claim against defendants A. Johnson, G. Ybarra, E. Lopez, M. Garcia, E. Barron, O. Delgado, and T. Lee which had been found to be cognizable. (*Id.*) On December 11, 2017, plaintiff notified the court of his intent to proceed only on his claim of excessive use of force. (Doc. No. 15.)

1 Therefore, on December 12, 2017, the magistrate judge issued findings and
2 recommendations recommending that this action proceed only on plaintiff's claim of excessive
3 use of force, and that his deliberate indifference claim brought against defendant J. Presson be
4 dismissed for failure to state a cognizable claim for relief. The findings and recommendations
5 were served on plaintiff and contained notice that objections thereto were to be filed within
6 fourteen days. No objections were filed and the time period to do so has passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the
8 undersigned has conducted a *de novo* review of the case. The undersigned concludes the findings
9 and recommendations are supported by the record and proper analysis.

10 Accordingly:

- 11 1. The findings and recommendations issued December 12, 2017 (Doc. No. 17) are
12 adopted in full;
- 13 2. This action shall proceed on plaintiff's claim of excessive force against defendants
14 A. Johnson, G. Ybarra, E. Lopez, M. Garcia, E. Barron, O. Delgado, and T. Lee;
- 15 3. Plaintiff's claim of deliberate indifference against J. Presson is dismissed for
16 failure to state a cognizable claim for relief; and
- 17 4. The matter is referred back to the magistrate judge for initiation of service of
18 process.

19 IT IS SO ORDERED.

20 Dated: February 14, 2018

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23 UNITED STATES DISTRICT JUDGE
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