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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 ROBERT C. WILLIAMS,
12 Plaintiff,
13 v.
14 GERARDO ALCALA, et al.,
15 Defendants.
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No. 1:17-cv-00916-DAD-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION TO AMEND THE
COMPLAINT

(Doc. No. 40, 59, 61)

18 Plaintiff Robert C. Williams is proceeding *pro se* and *in forma pauperis* in this civil rights
19 action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge
20 pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

21 On August 31, 2018, the assigned magistrate judge issued findings and recommendations,
22 recommending that plaintiff's motion to amend his complaint be denied. (Doc. No. 59.) The
23 findings and recommendations were served on the parties and contained notice that any
24 objections thereto were to be filed within twenty-one days after service. (*Id.* at 5.) Plaintiff filed
25 objections on September 13, 2018. (Doc. No. 61.)

26 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
27 *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's
28 objections, the court finds the findings and recommendations to be supported by the record and

1 by proper analysis.

2 In moving to amend his complaint, plaintiff seeks to add allegations that defendants
3 conspired and retaliated against him because of his complaint against an unidentified officer, and
4 that this retaliation took the form of using excessive force against him. Specifically, plaintiff
5 seeks to add allegations that on October 21, 2015, he filed a complaint about a clinical staff
6 member. (Doc. No. 40 at 7–8.) In his objections, plaintiff states that he seeks to add these
7 allegations to his complaint in this case for two reasons. First, he wishes to establish the
8 defendants' state of mind when they used excessive force against him on October 21, 2015.
9 (Doc. No. 61 at 2.) Second, he seeks to use these facts to allege a new claim for conspiracy
10 and/or retaliation.

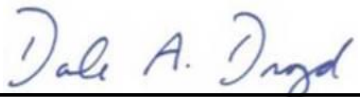
11 With respect to defendants' state of mind, the court finds that leave to amend must be
12 denied because it would unduly delay this litigation. *See Eminence Capital, LLC v. Aspeon, Inc.*,
13 316 F.3d 1048, 1052 (9th Cir. 2003). The undersigned has already concluded that plaintiff's
14 complaint states a cognizable claim for excessive use of force. (Doc. No. 24 at 3.) No further
15 factual allegations in the complaint are therefore required to support this claim, and granting leave
16 to amend would serve only to delay resolution of this matter without any corresponding benefit.
17 Regarding any additional claims plaintiff seeks to now allege, the assigned magistrate judge
18 found that these additional allegations, even if credited, would not state a cognizable claim for
19 relief, either as to claims of conspiracy or retaliation. Plaintiff's objections do not call those
20 conclusions into question.

21 Accordingly:

- 22 1. The findings and recommendations issued on August 31, 2018 (Doc. No. 59) is
23 adopted in full; and
- 24 2. Plaintiff's motion to amend the complaint (Doc. No. 41) is denied.

25 IT IS SO ORDERED.

26 Dated: November 27, 2018

27 
UNITED STATES DISTRICT JUDGE