



1 Plaintiff responded that he does not intend to amend and instead wishes to proceed with  
2 the cognizable claims. (ECF No. 8.)

3 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 4 1. This action proceed only on the cognizable Eighth Amendment claims  
5 for damages against Defendants Gregory and Duran in their individual  
6 capacities; and  
7 2. All other claims and defendants be dismissed from this action for failure  
8 to state a claim.

9 These findings and recommendations will be submitted to the United States  
10 District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C.  
11 § 636(b)(1). Within fourteen (14) days after being served with the findings and  
12 recommendations, Plaintiff may file written objections with the Court. The document  
13 should be captioned "Objections to Magistrate Judge's Findings and Recommendations."  
14 Plaintiff is advised that failure to file objections within the specified time may result in the  
15 waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)  
16 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

17  
18 IT IS SO ORDERED.

19 Dated: December 1, 2017

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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