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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	DONALD GLASS,	CASE No. 1:17-cv-01013-MJS (PC)
<u>12</u>	Plaintiff,	FINDINGS AND RECOMMENDATIONS
13	v.	THAT THIS ACTION PROCEED ONLY ON COGNIZABLE EIGHTH AMENDMENT
14	CALIFORNIA DEPARTMENT OF	CLAIMS AND THAT ALL OTHER CLAIMS AND DEFENDANTS BE
15	CORRECTIONS AND REHABILITATION, et al.,	DISMISSED
16	Defendants.	(ECF No. 1)
17	Defendants.	
18	Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983.	
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21	On October 31, 2017, the Court screened Plaintiff's complaint and found that it	
22	states cognizable the following claims for damages against Defendants Gregory and	
23	Duran in their individual capacities: against Defendants Gregory and Duran for excessive	
24	force, against Defendants Gregory and Duran for deliberate indifference to medical	
25	needs, and against Defendant Duran for a failure to protect. (ECF No. 7.) The remaining	
26	claims were not cognizable as pled. Plaintiff was ordered to file an amended complaint	
27	or notify the Court in whiting if he wished	to proceed only on the cognizable claims. (<u>Id.</u>)
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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 <u>Baxter v. Sullivan</u> , 923 F.2d 1391, 1394 (9th Cir. 1991)).	
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18	IT IS SO ORDERED.	
19	Dated: <u>December 1, 2017</u> Isl Michael J. Seng	
20	UNITED STATES MAGISTRATE JUDGE	
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