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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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10 TONY R. LEWIS,

11 Plaintiff,

12 v.

13 CALIFORNIA DEPARTMENT OF
14 CORRECTIONS AND
REHABILITATION, *et al.*,

15 Defendants.

Case No. 1:17-cv-01064-DAD-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT ALL CLAIMS
AND DEFENDANTS BE DISMISSED,
EXCEPT FOR PLAINTIFF'S CLAIMS
FOR EXCESSIVE FORCE IN VIOLATION
OF THE EIGHTH AMENDMENT
AGAINST DEFENDANTS B. NICKELL, J.
RAMIREZ AND O. DELGADO

(ECF NOS. 1 & 9)

16 OBJECTIONS, IF ANY, DUE WITHIN
17 FOURTEEN DAYS

18 Tony R. Lewis ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
19 with this civil rights action pursuant to 42 U.S.C. § 1983. On August 9, 2017, Plaintiff filed the
20 complaint commencing this action. (ECF No. 1). The Court screened Plaintiff's complaint
21 pursuant to 28 U.S.C. § 1915. (ECF No. 9). The Court found that the complaint stated
22 cognizable claims for excessive force in violation of the Eighth Amendment against defendants
23 B. Nickell, J. Ramirez and O. Delgado. (Id. at 10). The Court also found that Plaintiff failed to
24 state any other cognizable claims. (Id.)

25 The Court allowed Plaintiff to choose between proceeding only on the claims for
26 excessive force in violation of the Eighth Amendment against defendants B. Nickell, J.
27 Ramirez and O. Delgado, amending the complaint, or standing on the complaint subject to the
28 Court issuing findings and recommendations to a district judge consistent with the screening

1 order. (Id. at 11). On February 7, 2018, Plaintiff notified the Court that he is willing to
2 proceed only on the claims for excessive force in violation of the Eighth Amendment against
3 defendants B. Nickell, J. Ramirez and O. Delgado. (ECF No. 10).

4 Accordingly, for the reasons laid out in the Court’s screening order that was entered on
5 January 2, 2018 (ECF No. 9), and because Plaintiff has notified the Court that he is willing to
6 proceed only on the claims for excessive force in violation of the Eighth Amendment against
7 defendants B. Nickell, J. Ramirez and O. Delgado (ECF No. 10), it is HEREBY
8 RECOMMENDED that all claims and defendants be dismissed, except for Plaintiff’s claims
9 for excessive force in violation of the Eighth Amendment against defendants B. Nickell, J.
10 Ramirez and O. Delgado.

11 These findings and recommendations are submitted to the United States district judge
12 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
13 **(14) days** after being served with these findings and recommendations, Plaintiff may file
14 written objections with the Court. The document should be captioned “Objections to
15 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
16 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
17 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
18 (9th Cir. 1991)).

19
20 IT IS SO ORDERED.

21 Dated: March 22, 2018

22 /s/ Eric P. Grogan
23 UNITED STATES MAGISTRATE JUDGE
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