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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 PRECILIANO TOMAS CHAIDEZ,

12 Plaintiff,

13 vs.

14 CAMACHO, et al.,

15 Defendants.
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1:17-cv-01098-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
CAMACHO ON PLAINTIFF'S EIGHTH
AMENDMENT EXCESSIVE FORCE
CLAIM, AND THAT ALL OTHER CLAIMS
AND DEFENDANTS BE DISMISSED
(ECF No. 1.)**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

21 Preciliano Tomas Chaidez ("Plaintiff") is a state prisoner proceeding *pro se* and *in*
22 *forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On August 16, 2017,
23 Plaintiff filed the Complaint commencing this action. (ECF No. 1.)

24 On June 27, 2018, the court screened Plaintiff's Complaint pursuant to 28 U.S.C.
25 § 1915A and found that it states a cognizable excessive force claim under § 1983 against
26 defendant Correctional Officer (C/O) Camacho, but no other claims. (ECF No. 11.) Plaintiff
27 was granted leave to either file an amended complaint or notify the court that he is willing to
28 proceed only on the claim found cognizable by the court. (*Id.*) On August 15, 2018, Plaintiff

1 filed a notice informing the court that he is willing to proceed only on the cognizable Eighth
2 Amendment excessive force claim against defendant C/O Camacho. (ECF No. 12.)

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

- 4 1. This action proceed only against defendant C/O Camacho on Plaintiff's claim
5 for use of excessive force under the Eighth Amendment;
- 6 2. All remaining claims and defendants be dismissed from this action;
- 7 3. Plaintiff's medical claim and claims for adverse conditions of confinement,
8 failure to protect, improper appeals process, sexual conduct, retaliation, and
9 verbal threats be dismissed from this action based on Plaintiff's failure to state
10 any claims upon which relief may be granted;
- 11 4. Defendants Sgt. Nuno, Sgt. Martinez, C/O Herrera, Lt. J. Johnson, Lt. E. Smith,
12 Felix (ISU), Short (ISU), and Sgt. Huerta be dismissed from this action based on
13 Plaintiff's failure to state any claims against them; and
- 14 5. This case be referred back to the Magistrate Judge for further proceedings,
15 including initiation of service of process.

16 These Findings and Recommendations will be submitted to the United States District
17 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
18 fourteen (14) days after being served with these Findings and Recommendations, Plaintiff may
19 file written objections with the Court. The document should be captioned "Objections to
20 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
21 objections within the specified time may waive the right to appeal the District Court's order.
22 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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24 IT IS SO ORDERED.

25 Dated: August 19, 2018

/s/ Gary S. Austin
26 UNITED STATES MAGISTRATE JUDGE
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