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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARCO A. GARCIA,
Plaintiff,
v.
GARCIA, et al.,
Defendants.

Case No. 1:17-cv-01313-LJO-BAM (PC)
**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS**
(ECF No. 12)

Plaintiff Marco A. Garcia (“Plaintiff”), is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The events in the complaint are alleged to have occurred while Plaintiff was housed in the Kings County jail.

On May 31, 2018, the Magistrate Judge screened Plaintiff’s complaint under 28 U.S.C. § 1915A, and found that it stated a cognizable claim for excessive force in violation of the Fourteenth Amendment against Defendants Garcia and Bursiaga, but failed to state any other cognizable claims against any other defendants. The Magistrate Judge provided Plaintiff with an opportunity to file a first amended complaint or notify the Court of his willingness to proceed only on his cognizable claims. (ECF No. 10.) On June 29, 2018, Plaintiff notified the Court of his willingness to proceed only on the cognizable claims identified by the Court. (ECF No. 11.)

On July 10, 2018, the Magistrate Judge issued findings and recommendations that: (1) this action proceed on Plaintiff’s complaint, filed October 2, 2017, for excessive force in violation of

1 the Fourteenth Amendment against Defendants Garcia and Bursiaga; and (2) all other claims and
2 Defendants be dismissed based on Plaintiff's failure to state claims upon which relief may be
3 granted. (ECF No. 12.)

4 The findings and recommendations were served on Plaintiff and contained notice that any
5 objections thereto were to be filed within fourteen (14) days after service. (Id.) On July 19,
6 2018, Plaintiff filed a notice of change of address, (ECF No. 13), and the findings and
7 recommendations were re-served on Plaintiff at his new address. The Court permitted Plaintiff an
8 additional fourteen days to file objections, and no objections have been filed.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
10 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the
11 findings and recommendations to be supported by the record and by proper analysis.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The findings and recommendations issued on July 10, 2018, (ECF No. 12), are
14 adopted in full;
- 15 2. This action shall proceed on Plaintiff's complaint, filed October 2, 2017, (ECF No. 1),
16 for excessive force in violation of the Fourteenth Amendment against Defendants
17 Garcia and Bursiaga;
- 18 3. All other claims and Defendants are dismissed, with prejudice, based on Plaintiff's
19 failure to state claims upon which relief may be granted; and
- 20 4. This action is referred back to the assigned Magistrate Judge for further proceedings
21 consistent with this order.

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23 IT IS SO ORDERED.

24 Dated: August 13, 2018

/s/ Lawrence J. O'Neill
25 UNITED STATES CHIEF DISTRICT JUDGE
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