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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JAMES C. McCURDY, ) Case No.: 1:17-cv-01356-LJO-SAB (PC)  
 )  
Plaintiff, )  
 )  
v. ) ORDER OVERRULING PLAINTIFF’S  
 ) OBJECTIONS TO MARCH 21, 2018 FINDINGS  
 ) AND RECOMMENDATIONS, AND DIRECTING  
 ) PLAINTIFF TO COMPLETE AND RETURN THE  
S. KERNAN, et al., ) SERVICE OF PROCESS FORMS WITHIN  
 ) THIRTY DAYS  
Defendants. )  
 )  
 ) [ECF Nos. 17, 23, 26]

Plaintiff James C. McCurdy is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On October 30, 2017, the Magistrate Judge filed Findings and Recommendations, recommending that this action proceed against Defendant Bautista for excessive force in violation of the Eighth Amendment and battery under California law. (ECF No. 17.) It was recommended that all other claims and defendants be dismissed for failure to state a cognizable claim for relief. (Id.) The Findings and Recommendations were served on Plaintiff and contained notice that objections were to be filed within thirty days. (Id.)

Plaintiff did not file objections within the thirty-day time frame. On April 23, 2018, the Findings and Recommendations were adopted in full. (ECF No. 18.) On this same date, but after the order adopting was placed on the docket, Plaintiff filed a motion for an extension of time to file objections to the Findings and Recommendations. (ECF No. 19.) On April 24, 2018, the Court

1 granted Plaintiff's request and allowed him thirty days to file objections. (ECF No. 20.) On May 31,  
2 2018, Plaintiff filed a second motion for an extension of time to file objections. (ECF No. 21.) On  
3 June 4, 2018, the Court granted Plaintiff an additional thirty days to file objections. (ECF No. 22.)  
4 Over thirty days passed and Plaintiff did not file objections. Accordingly, on July 19, 2018, the Court  
5 determined that the action shall proceed action, and forwarded Plaintiff the service of process forms  
6 form completion and return within thirty days. (ECF No. 23.)

7 On August 8, 2018, Plaintiff filed yet another request for an extension of time to file  
8 objections. (ECF No. 24.) On August 10, 2018, the Court granted Plaintiff thirty days to file  
9 objections, and Plaintiff filed his objections on this same date. (ECF Nos. 25, 26.) The Court has  
10 reviewed Plaintiff's objections and confirms the April 23, 2018 order adopting the Findings and  
11 Recommendations in full. In his objections, Plaintiff merely sets forth his disagreement with the  
12 Magistrate Judge's March 21, 2018 Findings and Recommendations finding that this action shall  
13 proceed only on Plaintiff's excessive force and battery claims against Defendant Bautista. In  
14 screening Plaintiff's complaint, the Court carefully considered Plaintiff's allegations, construed the  
15 allegations in light of Plaintiff's pro se status, and explained why the complaint failed to comply with  
16 the applicable Federal Rules of Civil Procedure, along with a statement of the law applicable to any  
17 potential claims. Plaintiff contends that he has stated cognizable claims for due process violation,  
18 conditions of confinement, deliberate indifference to a serious medical need, excessive force, and  
19 failure to intervene. However, as stated in the Court's August 23, 2017 order, Plaintiff has failed to set  
20 forth sufficient factual basis to support his claims as applied to the relevant legal standard. Plaintiff's  
21 present objections contains a rambling recitation of facts he contends support cognizable constitutional  
22 claims. However, Plaintiff has failed to set forth any valid objections and his mere disagreement with  
23 the applicable law and analysis is insufficient. Accordingly, the Court's April 23, 2018 order adopting  
24 the Findings and Recommendations remains the law of this case.

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Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff's objection to the March 21, 2018 Findings and Recommendations is overruled; and

2. Within thirty days from the date of service of this order, Plaintiff shall complete and return the service of process forms pursuant to the Court's July 19, 2018 order.

IT IS SO ORDERED.

Dated: August 15, 2018

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