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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUILLERMO TRUJILLO CRUZ,

Plaintiff,

v.

S. SAVIOE,

Defendant.

No. 1: 17-cv-01474-DAD-BAM

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS

(Doc. No. 17)

Plaintiff Guillermo Trujillo Cruz is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 24, 2018, the assigned magistrate judge issued findings and recommendations recommending that plaintiff be allowed to proceed on his First Amendment retaliation claim against defendant Savioe’s as alleged in his first amended complaint but that all other claims be dismissed from this action and that plaintiff’s request for injunctive relief be denied. (Doc. No. 12 at 6.)

The findings and recommendations were served on all parties appearing in this action and contained notice that any objections were to be filed within fourteen (14) days after service. (*Id.*

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1 at 7.) Following the granting of an extension of time, plaintiff timely filed objections on June 11,
2 2018. (Doc. No. 15.)

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

6 In his objections, plaintiff contends that he alleged sufficient facts in his first amended
7 complaint to support claims against defendant Savioe for the excessive use of force and deliberate
8 indifference.¹ As discussed in the findings and recommendations, plaintiff's conclusory
9 assertions are insufficient to state a cognizable claim for excessive force or deliberate
10 indifference. To the extent that plaintiff objects to the dismissal of certain claims on the basis that
11 defendant Savioe has not met her burden to provide an alternate explanation for the incidents
12 alleged, the court notes that defendant Savioe has not appeared or been served in this action and
13 does not yet have an obligation to respond to the allegations of plaintiff's first amended
14 complaint. None of plaintiff's remaining arguments provide a legal basis on which to question
15 the magistrate judge's findings and recommendations.

16 Accordingly,

- 17 1. The findings and recommendations issued on May 24, 2018 (Doc. No. 12) are
18 adopted in full;
- 19 2. This action shall proceed on plaintiff's first amended complaint filed on May 21,
20 2018 (Doc. No. 11) against defendant Savioe for retaliation in violation of the First
21 Amendment;
- 22 3. Plaintiff's request for injunctive relief is denied as moot;

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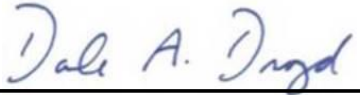
26 _____
27 ¹ Plaintiff attached more than 330 pages of exhibits to his objections. Because plaintiff has not
28 incorporated these exhibits by reference or explained the significance of any of these documents,
the court declines to expend its limited resources examining those documents in an attempt to
discern any meritorious objection to the magistrate judge's findings and recommendations.

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- 4. The remaining claims are dismissed from this action; and
- 5. This matter is referred back to the assigned magistrate judge for further proceedings consistent with this order.

IT IS SO ORDERED.

Dated: July 30, 2018



UNITED STATES DISTRICT JUDGE