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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ANTHONY L. ROBINSON,

12 Plaintiff,

13 vs.

14 DAVE DAVEY, et al.,

15 Defendants.
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1:17-cv-01524-DAD-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
PROCEED ONLY AGAINST DEFENDANT
GERMAN FOR USE OF EXCESSIVE
FORCE, AND AGAINST DEFENDANTS
PETERSON AND GONZALES-THOMPSON
FOR INADEQUATE MEDICAL CARE
UNDER THE EIGHTH AMENDMENT,
AND THAT ALL OTHER CLAIMS AND
DEFENDANTS BE DISMISSED**

OBJECTIONS, IF ANY, DUE IN 14 DAYS

21 Anthony L. Robinson (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
22 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the
23 Complaint commencing this action on November 15, 2017. (ECF No. 1.) On July 2, 2018,
24 Plaintiff filed the First Amended Complaint. (ECF No. 24.)

25 The First Amended Complaint names as defendants, Dave Davey (Warden),
26 Lieutenant (Lt.) Munoz, Correctional Officer (C/O) K. Welch, C/O H. German, Jr., C/O N. J.
27 Blevins, C/O J. D. Wilson, S. Gonzales-Thompson (LVN), Lt. A. V. Johnson, Doe Defendants,
28 and Sergeant (Sgt.) A. Peterson (collectively, “Defendants”), and brings claims for violation of

1 due process and equal protection, excessive force, denial of medical care, negligence, false
2 reports, conspiracy, and cover-up of wrongdoing.

3 The court screened the First Amended Complaint and found that it states cognizable
4 claims under the Eighth Amendment against defendant German for use of excessive force, and
5 against defendants Peterson and Gonzales-Thompson for inadequate medical care. (ECF No.
6 29.) On October 29, 2018, the court issued a screening order requiring Plaintiff to either (1)
7 file a Second Amended Complaint, or (2) notify the court that he is willing to proceed only
8 with the claims found cognizable by the court. (Id.)

9 On January 30, 2019, Plaintiff notified the court that he is willing to proceed only with
10 the claims found cognizable by the court. (ECF No. 45.)

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

- 12 1. This action proceed only on Plaintiff's claims against defendant German for use
13 of excessive force, and against defendants Peterson and Gonzales-Thompson for
14 inadequate medical care, under the Eighth Amendment;
- 15 2. All remaining claims and defendants be dismissed from this action;
- 16 3. Plaintiff's claims for violation of due process and equal protection, negligence,
17 false reports, conspiracy, and cover-up of wrongdoing be dismissed from this
18 action based on Plaintiff's failure to state claims upon which relief may be
19 granted;
- 20 4. Defendants Davey, Munoz, Welch, Blevins, Wilson, Johnson, and the Doe
21 Defendants be dismissed from this action based on Plaintiff's failure to state
22 claims against them upon which relief may be granted; and
- 23 5. This case be referred back to the Magistrate Judge for further proceedings,
24 including initiation of service of process.

25 These Findings and Recommendations will be submitted to the United States District
26 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
27 fourteen (14) days after the date of service of these Findings and Recommendations, Plaintiff
28 may file written objections with the Court. The document should be captioned "Objections to

1 Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file
2 objections within the specified time may waive the right to appeal the District Court’s order.
3 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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5 IT IS SO ORDERED.

6 Dated: January 31, 2019

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