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

LENIN GARCIA,)	Case No.: 1:18-cv-00014-SAB (PC)
Plaintiff,)	
v.)	ORDER DIRECTING CLERK OF COURT TO RANDOMLY ASSIGN A DISTRICT JUDGE TO THIS ACTION
E. MORENO, et al.,)	FINDINGS AND RECOMMENDATIONS RECOMMENDING DISMISSAL OF CERTAIN CLAIMS
Defendants.)	
)	[ECF Nos. 1, 10, 11]

Plaintiff Lenin Garcia is appearing pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the instant action on December 29, 2017.

On March 2, 2018, the Court screened Plaintiff’s complaint and found that Plaintiff stated a cognizable claim for failure to protect against Defendants E. Moreno, Pena, H. Hinojosa, Segura and M. Silva, a cognizable claim for excessive force against Defendant Moreno, a cognizable claim for retaliation against Defendants Moreno, Pena, Hinojosa, Segura and E. Silva, and a cognizable claim for failure to decontaminate his cell against Defendants D. Hick, M. Harris, and E. Silva. (ECF No. 10.) Plaintiff was granted leave to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (Id.)

On March 12, 2018, Plaintiff notified the Court of his intent to proceed only on the claims found to be cognizable. (ECF No. 11.) As a result, the Court will recommend that this action only proceed on the claim identified above, and all other claims be dismissed for the reasons stated in the

1 Court's March 2, 2018 screening order. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S. 662, 678
2 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d 338, 342
3 (9th Cir. 2010).

4 Accordingly, it is HEREBY RECOMMENDED that:

- 5 1. This action proceed on Plaintiff's claim against Defendants E. Moreno, Pena, H.
6 Hinojosa, Segura and M. Silva for failure to protect, against Defendant Moreno for
7 excessive force, against Defendants Moreno, Pena, Hinojosa, Segura and E. Silva for
8 retaliation, and against Defendants D. Hick, M. Harris, and E. Silva for failure to
9 decontaminate his cell.
- 10 2. All other claims be dismissed for failure to state a claim upon which relief could be
11 granted, consistent with the Court's March 2, 2018 order; and
- 12 3. The Clerk of Court is directed to randomly assign a District Judge to this action.

13 These findings and recommendations will be submitted to the United States District Judge
14 assigned to the case, pursuant to the provision of 28 U.S.C. §636 (b)(1)(B). Within **fourteen (14) days**
15 after being served with these Finding and Recommendations, Plaintiff may file written objections with
16 the Court. The document should be captioned "Objections to Findings and Recommendations."
17 Plaintiff is advised that failure to file objections within the specified time may result in the waiver of
18 rights on appeal. Wilkerson v. Wheeler, 772 F.2d F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v.
19 Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

20
21 IT IS SO ORDERED.

22 Dated: March 13, 2018



UNITED STATES MAGISTRATE JUDGE