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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES RAYMOND, successor in interest
to decedent Augustus Joshua Crawford,

Plaintiff,

v.

WARREN MARTIN, et al.,

Defendants.

No. 1:18-cv-00307-DAD-JLT

ORDER ADOPTING IN FULL THE
FINDINGS AND RECOMMENDATIONS,
DISMISSING CERTAIN CLAIMS AND THE
CITY OF BAKERSFIELD AS A
DEFENDANT

(Doc. No. 7)

Plaintiff James Raymond is proceeding *in forma pauperis* in this action as the successor in interest to his deceased son, Augustus Joshua Crawford. (Doc. No. 1.) This matter was referred to the assigned magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(C) and Local Rules 302 and 304.

On May 2, 2018, the magistrate judge screened plaintiff’s complaint and issued an order directing plaintiff to file an amended complaint or notify the court of his willingness to proceed only on claims alleged in his original complaint found to be cognizable by the court. (Doc. No. 5.) The magistrate judge found that plaintiff had failed to allege cognizable claims under state law due to his failure to plead in compliance with the Tort Claims Act. (*Id.* at 7–8.) In addition, the magistrate judge found that plaintiff failed to state a cognizable claim against the City of Bakersfield. (*Id.* at 13–15.) On May 21, 2018, plaintiff informed the court that he wished to

1 proceed only on the claims found cognizable. (Doc. No. 6.) Accordingly, on May 23, 2018, the
2 magistrate judge issued findings and recommendations recommending that the action proceed
3 only on plaintiff's claims of excessive use of force, failure to provide medical care, and loss of
4 familial association against Officer Martin and that plaintiff's remaining claims be dismissed.
5 (Doc. No. 7.) Plaintiff was given fourteen days to file any objections to the findings and
6 recommendations. (Doc. No. 7 at 15.) To date, plaintiff has filed no objections and the time for
7 doing so has passed.

8 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court conducted a *de*
9 *novo* review of the case. Having carefully reviewed the file, the court concludes that the findings
10 and recommendations are supported by the record and proper analysis.

11 Accordingly:

- 12 1. The findings and recommendations issued May 23, 2018 (Doc. No. 7) are adopted in
13 full;
- 14 2. Plaintiff's claims for wrongful death, negligence, assault, and battery are dismissed;
- 15 3. Plaintiff's claims brought under 42 U.S.C. § 1983 against the City of Bakersfield are
16 dismissed;
- 17 4. The City of Bakersfield is terminated as a defendant in this action;
- 18 5. This action shall proceed only upon plaintiff's claims brought under 42 U.S.C. § 1983
19 for excessive use of force, failure to provide medical care, and loss of familial
20 association against defendant Officer Martin; and
- 21 6. This matter is referred back to the assigned magistrate judge for further proceedings
22 consistent with this order.

23 IT IS SO ORDERED.

24 Dated: July 30, 2018

25 
26 UNITED STATES DISTRICT JUDGE