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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARQUISE GRADY,
Plaintiff,
v.
C. GUTIERREZ, *et al.*,
Defendants.

No. 1:18-cv-00922-DAD-JDP

FINDINGS AND RECOMMENDATIONS
THAT PLAINTIFF BE PERMITTED TO
PROCEED ON COGNIZABLE CLAIM AND
THAT NON-COGNIZABLE CLAIMS BE
DISMISSED WITHOUT PREJUDICE

OBJECTIONS, IF ANY, DUE IN 14 DAYS

Plaintiff Marquise Grady is a state prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. On July 3, 2019, I screened Grady’s complaint and found that he stated due process claims against defendants Gutierrez, Jaime, Voong, and Lee, but no other claims. *See* ECF No. 10. That order gave Grady three options: (1) proceed only on the claims found cognizable, (2) amend the complaint to add additional facts to make out additional claims, or (3) stand on the current complaint subject to dismissal of claims and defendants. On July 18, 2019, Grady filed a notice indicating his desire to proceed only on the claims deemed cognizable. ECF No. 11. Accordingly, I recommend that his remaining claims be dismissed without prejudice.

RECOMMENDATION

Under 28 U.S.C. § 636(c)(1), all parties named in a civil action must consent to a magistrate judge’s jurisdiction before that jurisdiction vests for “dispositive decisions.” *Williams*

1 v. King, 875 F.3d 500, 504 (9th Cir. 2017). No defendant has appeared or consented to a
2 magistrate judge's jurisdiction in this case, so any dismissal of a claim requires an order from a
3 district judge. *Id.* Thus, the undersigned submits the following findings and recommendations
4 under 28 U.S.C. § 636(b)(1):

- 5 1. Plaintiff states a cognizable due process claims against defendants Gutierrez, Jaime,
6 Voong, and Lee.
- 7 2. Plaintiff's remaining claims should be dismissed without prejudice.

8 Within fourteen days of service of these findings and recommendations, plaintiff may file
9 written objections with the court. If plaintiff files such objections, he should do so in a document
10 captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is
11 advised that failure to file objections within the specified time may result in the waiver of rights
12 on appeal. *See Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (*citing Baxter v.*
13 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

14
15 IT IS SO ORDERED.

16 Dated: September 9, 2019

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18 UNITED STATES MAGISTRATE JUDGE

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20 No. 205
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