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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CION PERALTA,
Plaintiff,
v.
J. SWETALLA, et al.,
Defendants.

No. 1:18-cv-01023-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. Nos. 1, 9)

Plaintiff Cion Peralta is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 5, 2018, the assigned magistrate judge issued findings and recommendations, recommending that the action proceed against defendant Swetalla for sexual assault and excessive use of force in violation of the Eighth Amendment, retaliation in violation of the First Amendment, and negligence; against defendant Machado for retaliation in violation of the First Amendment; and against defendants Powers and Cano for denial of due process in violation of the Fourteenth Amendment. (Doc. No. 9). The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within twenty-one days from the date of service. (*Id.* at 13.) To date, no objections to the findings and recommendations have been filed, and the time in which to do so has now passed.

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

4 Accordingly,

- 5 1. The findings and recommendations issued December 5, 2018 (Doc. No. 9) are
6 adopted in full;
- 7 2. This action shall proceed only on plaintiff's claims against defendant Swetalla for
8 sexual assault and excessive force in violation of the Eighth Amendment,
9 retaliation in violation of the First Amendment, and negligence; against defendant
10 Machado for retaliation in violation of the First Amendment; and against
11 defendants Powers and Cano for denial of due process in violation of the
12 Fourteenth Amendment; and
- 13 3. All other claims and defendants, including defendant Sebok, are dismissed; and
- 14 4. This matter is referred back to the assigned magistrate judge for further
15 proceedings.

16 IT IS SO ORDERED.

17 Dated: April 8, 2019

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20 UNITED STATES DISTRICT JUDGE
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