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

RICHARD JUNIEL,

Plaintiff,

v.

J. CLAUSEN, et al.,

Defendants.

1:18-cv-01118-LJO-GSA-PC

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT THIS CASE  
PROCEED AGAINST DEFENDANT J.  
CLAUSEN FOR USE OF EXCESSIVE FORCE  
AND DEFENDANT A. RANDOLPH FOR  
RETALIATION, AND THAT ALL OTHER  
CLAIMS BE DISMISSED FOR FAILURE TO  
STATE A CLAIM  
(ECF No. 1.)**

**OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN (14) DAYS**

Richard Juniel (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On August 20, 2018, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) On July 1, 2019, the court screened the Complaint and issued an order requiring Plaintiff to either file an amended complaint, or notify the court that he is willing to proceed with the cognizable claims found by the court, against defendant Clausen for use of excessive force and defendant Randolph for retaliation. (ECF No. 9.)

On July 18, 2019, Plaintiff filed a notice that he does not wish to amend the Complaint and is willing to proceed only with the claims found cognizable by the court. (ECF No. 10.)

1 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that:

- 2 1. This case proceed against defendant Correctional Officer Clausen for use of  
3 excessive force under the Eighth Amendment and against defendant Lieutenant  
4 Randolph for retaliation under the First Amendment, for monetary damages only;
- 5 2. All other claims be dismissed from this action for failure to state a claim upon  
6 which relief may be granted under § 1983;
- 7 3. Plaintiff's claims for tight handcuffs, unreasonable search and seizure, cell search,  
8 strip search, deprivation of personal property, and declaratory relief be dismissed  
9 from this action based on Plaintiff's failure to state a claim under § 1983; and
- 10 4. This case be referred back to the Magistrate Judge for further proceedings,  
11 including initiation of service of process.

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

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21 IT IS SO ORDERED.

22 Dated: July 22, 2019

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