

1 On November 19, 2020, more than a month after the deadline for filing objections, but
2 before the Court issued an order addressing the findings and recommendations, Plaintiff filed a
3 motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e). (Doc. No.
4 27.) Plaintiff argues that he should be permitted to untimely file his objections because he was
5 transferred to the custody of the Kern County Sheriff's Department before he was able to file his
6 objections. (*Id.* at 5.) As the motion appears to challenge the Magistrate Judge's findings and
7 recommendations, rather than a final ruling or judgment of the Court, the motion will be
8 construed as Plaintiff's objections. The Court finds good cause to accept the untimely objections.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
10 *de novo* review of this case. Having carefully reviewed the entire file, including Plaintiff's
11 objections, the Court finds the findings and recommendations to be supported by the record and
12 by proper analysis.

13 Accordingly, IT IS HEREBY ORDERED as follows:

- 14 1. Plaintiff's motion to alter or amend judgment (Doc. No. 27) is denied;
- 15 2. The findings and recommendations (Doc. No. 26) issued on September 28, 2020,
16 are adopted in full;
- 17 3. This action shall proceed on Plaintiff's second amended complaint (Doc. No. 22),
18 filed August 31, 2020, against Defendants Cantu, Young, and Martinez for
19 excessive force in violation of the Eighth Amendment;
- 20 4. All other claims and all other defendants are dismissed from this action for failure
21 to state a claim upon which relief may be granted; and
- 22 5. This action is referred back to the Magistrate Judge for proceedings consistent
23 with this order.

24 IT IS SO ORDERED.

25 Dated: December 7, 2020

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28 SENIOR DISTRICT JUDGE