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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 LAWRENCE CHRISTOPHER SMITH,

11 Plaintiff,

12 vs.

13 BRIAN L. PARRIOT, et al.,

14 Defendants.

No. 1:19-cv-00286-NONE-GSA-PC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL
(Doc. No. 24.)

ORDER FOR THIS CASE TO PROCEED
WITH FIRST AMENDED COMPLAINT
AGAINST DEFENDANTS A. CANTU, W.
GUTIERREZ, AND J. MATTINGLY FOR
USE OF EXCESSIVE FORCE, AND
DISMISSING ALL OTHER CLAIMS AND
DEFENDANTS
(Doc. No. 22.)

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19 Lawrence Christopher Smith (“Plaintiff”) is a state prisoner proceeding *pro se* and *in*
20 *forma pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was
21 referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local
22 Rule 302.

23 On September 22, 2020, the assigned magistrate judge issued findings and
24 recommendations, recommending that this action proceed only against defendants Sgt. Andres
25 Cantu, C/O Wilfredo Gutierrez, and C/O James Mattingly for use of excessive force, and that
26 all other claims and defendants be dismissed from this action based on plaintiff’s failure to state
27 a claim. (Doc. No. 24.) Plaintiff was granted fourteen days in which to file objections to the

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1 findings and recommendations. (*Id.*) The fourteen-day time period has expired, and no
2 objections have been filed.

3 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(B) and Local Rule 304, this
4 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
5 the court finds the findings and recommendations to be supported by the record and proper
6 analysis.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The findings and recommendations issued on September 22, 2020, are
9 ADOPTED in full;
- 10 2. This action now proceeds on plaintiff's First Amended Complaint, filed on
11 September 10, 2020, against defendants Sgt. Andres Cantu, C/O Wilfredo
12 Gutierrez, and C/O James Mattingly for use of excessive force in violation of the
13 Eighth Amendment;
- 14 3. Plaintiff's claims challenging his guilty finding at the disciplinary hearing and
15 his loss of credits are dismissed from this § 1983 case as barred by the decisions
16 in *Heck v. Humphrey* and *Edwards v. Balisok*, without prejudice to his filing of a
17 petition for writ of habeas corpus;
- 18 4. Plaintiff's unrelated claims are dismissed from this action for violation of Rules
19 18(a) and 20(a) of the Federal Rules of Civil Procedure, without prejudice to
20 filing new cases addressing those claims;
- 21 5. All other claims and defendants are dismissed from this case due to plaintiff's
22 failure to state a claim upon which relief may be granted under § 1983;
- 23 6. Defendants Lieutenant (Lt.) Brian L. Parriot, Kern County Board of Supervisors,
24 Lisa S. Green (Kern County D.A.), John Doe (Secretary, CDCR), Kim Holland
25 (Warden, CCI), L. Gordon Isen (Deputy D.A., Kern County), J. Gutierrez
26 (Associate Warden), C/O Richard Cuellar, Patrick Matzen (Associate Warden),
27 Lt. David Crouse (Hearing Officer), Lt. T. Kephart, C/O J. Davis, C/O Jon

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1 Reimers, and Sgt. R. Cole are dismissed from this case for plaintiff's failure to
2 state any claims against them under § 1983;

3 7. Plaintiff's claims for inadequate medical care, Fourth Amendment violations,
4 conspiracy, due process, false reports, and retaliation are dismissed from this
5 action due to plaintiff's failure to state a claim; and; and

6 8. This case is referred back to the Magistrate Judge for further proceedings,
7 including initiation of service of process.

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9 IT IS SO ORDERED.

10 Dated: December 10, 2020

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13 UNITED STATES DISTRICT JUDGE
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