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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JOSE ANTONIO MARTINEZ,

12 Plaintiff,

13 vs.

14 M. NAVARRO, et al.,

15 Defendants.
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1:19-cv-00378-NONE-GSA-PC

**FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS
ACTION PROCEED ONLY AGAINST
DEFENDANTS SERGEANT M.
NAVARRO, C/O NAVARRO, C/O E.
MARES, AND C/O CRUZ, FOR USE OF
EXCESSIVE FORCE UNDER THE
EIGHTH AMENDMENT, AND THAT
ALL OTHER CLAIMS AND
DEFENDANTS BE DISMISSED**

OBJECTIONS, IF ANY, DUE IN 14 DAY

20 **I. BACKGROUND**

21 Jose Antonio Martinez (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
22 *pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On March 22, 2019, Plaintiff
23 filed the Complaint commencing this action. (ECF No. 1.) The Complaint names as defendants
24 Sergeant M. Navarro, Correctional Officer (C/O) Navarro, C/O E. Mares, C/O Cruz, Sergeant
25 Kellog, Sellers (Psych. Tech.), Stamphill (Psych. Tech.), Kenneth Landry (Psych. Tech.), and
26 Robin McConnell (Physician’s Assistant) (collectively, “Defendants”).and brings claims for
27 excessive force, violation of the Fourteenth Amendment, adverse conditions of confinement, and
28 state law claims.

1 **II. FINDINGS**

2 The court screened the Complaint under 28 U.S.C. § 1915 and found that it states
3 cognizable claims under the Eighth Amendment against Defendants C/O E. Mares, Sergeant M.
4 Navarro, C/O Cruz, and C/O Navarro for use of excessive force. The court also found that
5 Plaintiff is not entitled to injunctive relief if he prevails in this case and is confined to seeking
6 money damages for the violations of his federal rights. On August 10, 2020, the court issued a
7 screening order requiring Plaintiff to either (1) file an amended complaint, or (2) notify the court
8 that he is willing to proceed only with the excessive force claims found cognizable by the court.
9 (ECF No. 17.)

10 On September 8, 2020, Plaintiff notified the court that he is willing to proceed only with
11 the claims found cognizable by the court and dismiss all other claims and defendants. (ECF No.
12 20.)

13 **III. CONCLUSION AND RECOMMENDATIONS**

14 Based on the foregoing, it is **HEREBY RECOMMENDED** that:

- 15 1. This action proceed only on Plaintiff's claims against defendants C/O E. Mares,
16 Sergeant M. Navarro, C/O Cruz, and C/O Navarro. for use of excessive force in
17 violation of the Eighth Amendment, for money damages only;
- 18 2. All remaining claims and defendants be dismissed from this action;
- 19 3. Plaintiff's claims for violation of the Fourteenth Amendment, adverse conditions
20 of confinement, and state law claims be dismissed from this action based on
21 Plaintiff's failure to state any claims upon which relief may be granted;
- 22 4. Defendants Sergeant Kellog, Sellers (Psych. Tech.), Stamphill (Psych. Tech.),
23 Kenneth Landry (Psych. Tech.), and Robin McConnell (Physician's Assistant) be
24 dismissed from this action based on Plaintiff's failure to state any claims against
25 them upon which relief may be granted; and
- 26 5. This case be referred back to the Magistrate Judge for further proceedings,
27 including initiation of service of process.

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