

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 JOSE ANTONIO MARTINEZ,

12 Plaintiff,

13 vs.

14 M. NAVARRO, et al.,

15 Defendants.  
16  
17  
18

No. 1:19-cv-00378-NONE-GSA-PC

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS IN FULL  
(Doc. No. 22.)

ORDER FOR THIS ACTION TO 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 DISMISSING  
ALL OTHER CLAIMS AND DEFENDANTS

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

22 On August 10, 2020, the magistrate judge screened the operative complaint under  
23 28 U.S.C. § 1915 and found that it states cognizable claims under the Eighth Amendment  
24 against Defendants C/O E. Mares, Sergeant M. Navarro, C/O Cruz, and C/O Navarro for use of  
25 excessive force. (Doc. No. 17.) The court also found that plaintiff is not entitled to injunctive  
26 relief if he prevails in this case and is confined to seeking money damages for the violations of  
27 his federal rights. (*Id.*) On September 8, 2020, plaintiff declined to amend his complaint and  
28

1 instead notified the court that he is willing to proceed only with the claims found cognizable by  
2 the court and dismiss all other claims and defendants. (Doc. No. 20.)

3 On September 11 , 2020, the court entered findings and recommendations,  
4 recommending that this action proceed only against defendants C/O E. Mares, Sergeant M.  
5 Navarro, C/O Cruz, and C/O Navarro for use of excessive force in violation of the Eighth  
6 Amendment, for money damages only, and that all other claims and defendants be dismissed  
7 from this action based on plaintiff's failure to state a claim. (Doc. No. 22.) Plaintiff was  
8 granted fourteen days in which to file objections to the findings and recommendations. (*Id.*)  
9 To date, plaintiff has not filed any objections or otherwise responded to the findings and  
10 recommendations.

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

15 Accordingly, THE COURT HEREBY ORDERS that:

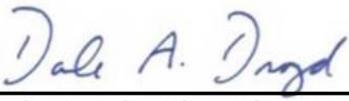
- 16 1. The findings and recommendations issued on September 10, 2020 (Doc. No. 22)  
17 are ADOPTED in full;
- 18 2. This action now proceeds on plaintiff's claims against defendants C/O E. Mares,  
19 Sergeant M. Navarro, C/O Cruz, and C/O Navarro for use of excessive force in  
20 violation of the Eighth Amendment, for money damages only;
- 21 3. All other claims and defendants are dismissed from this case for failure to state a  
22 claim upon which relief may be granted under § 1983;
- 23 4. Defendants Sergeant Kellog, Sellers (Psych. Tech.), Stamphill (Psych. Tech.),  
24 Kenneth Landry (Psych. Tech.), and Robin McConnell (Physician's Assistant)  
25 are dismissed from this action based on plaintiff's failure to state any claims  
26 against them upon which relief may be granted;
- 27 5. Plaintiff's claims for violation of the Fourteenth Amendment, adverse conditions  
28 of confinement, and state law claims are dismissed from this action based on

1 plaintiff's failure to state any claims upon which relief may be granted; and

2 6. This case is referred back to the magistrate judge for further proceedings,  
3 including initiation of service of process.  
4

5 IT IS SO ORDERED.

6 Dated: October 13, 2020

  
7 UNITED STATES DISTRICT JUDGE