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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID FALLS,  
Plaintiff,  
v.  
A. ARREDONDO, et al.,  
Defendants.

Case No. 1:19-cv-00441-NONE-JLT (PC)

**FINDINGS AND RECOMMENDATIONS  
TO DISMISS CERTAIN CLAIMS AND  
DEFENDANTS**

14-DAY DEADLINE

On August 26, 2019, the Court screened Plaintiff’s complaint (Doc. 1) and found that it states a cognizable claim of excessive force against A. Arredondo in his individual capacity, but that all other claims are not cognizable. (Doc. 10 at 11.) The Court therefore directed Plaintiff to file a first amended complaint curing the deficiencies identified in its order or notify the Court that he wishes to proceed only the claim of excessive force. (*Id.*; *see also* Doc. 21.)

On March 30, 2020, Plaintiff filed a notice that he “wish[es] to proceed only on the cognizable claim determined by the Court against Defendant A. Arredondo.” (Doc. 23.) Accordingly, and for the reasons set forth in the Court’s screening order (Doc. 10), the Court **RECOMMENDS** that:

1. Plaintiff’s claims be **DISMISSED**, except for his claim of excessive force in violation of the Eighth Amendment against Defendant A. Arredondo, in his individual capacity, under 42 U.S.C. § 1983 (Claim I); and,

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2. Defendants D. Davey, J. Gallagher, and M. Gamboa be DISMISSED.

These Findings and Recommendations will be submitted to the United States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days of the date of service of these Findings and Recommendations, Plaintiff may file written objections with the Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections within the specified time may result in waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: April 1, 2020

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE