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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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10 JOSHUA DAVIS BLAND,

11 Plaintiff,

12 v.

13 M. FLORES, et al.,

14 Defendants.
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Case No. 1:19-cv-00702-DAD-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT ALL CLAIMS
BE DISMISSED, EXCEPT FOR
PLAINTIFF'S CLAIM AGAINST
DEFENDANTS M. FLORES AND M.
STANE FOR DELIBERATE
INDIFFERENCE TO SERIOUS RISK OF
HARM IN VIOLATION OF THE EIGHTH
AMENDMENT; AGAINST M. FLORES
FOR HARASSMENT IN VIOLATION OF
THE EIGHTH AMENDMENT; AND
AGAINST M. FLORES AND M. STANE
FOR CONSPIRACY

(ECF NOS. 11, 13)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

21 Plaintiff, Joshua Davis Bland, is a state prisoner proceeding *pro se* and *in forma*
22 *pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

23 Plaintiff filed the complaint commencing this action in Kern County Superior Court on
24 August 3, 2018. Defendants removed the action to federal court on May 20, 2019. (ECF No. 1.)
25 The Court screened Plaintiff's complaint. (ECF No. 11.) The Court found that Plaintiff's
26 complaint "states cognizable claims for Eighth Amendment deliberate indifference to serious
27 risk of harm against M. Flores and M. Stane; for Eighth Amendment harassment against M.
28 Flores; and for conspiracy against M. Flores and M. Stane." (*Id.* at 19.) The Court also found

1 that Plaintiff failed to state any other cognizable claim against any other defendant. (*Id.*)

2 The Court allowed Plaintiff to choose between proceeding only on the claim(s) found
3 cognizable by the Court in the screening order, amending the complaint, or standing on the
4 complaint subject to the Court issuing findings and recommendations to a district judge
5 consistent with the screening order. (*Id.* at 19-20.) On August 30, 2019, Plaintiff notified the
6 Court that he is willing to proceed only on the claim found cognizable by the screening order.
7 (ECF No. 13.) Although Plaintiff indicated in his notice that he voluntarily dismisses all other
8 named defendants, the Court, out of an abundance of caution, issues this Findings and
9 Recommendations.

10 Accordingly, for the reasons set forth in the Court’s screening order that was entered on
11 August 8, 2019 (ECF No. 11), and because Plaintiff has notified the Court that he is willing to
12 proceed only on his claims against Defendants M. Flores and M. Stane for deliberate
13 indifference to serious risk of harm in violation of the Eighth Amendment; against Defendant
14 M. Flores for harassment in violation of the Eighth Amendment; and against Defendants M.
15 Flores and M. Stane for conspiracy (ECF No. 13),

16 IT IS HEREBY RECOMMENDED that all claims be dismissed, except for Plaintiff’s
17 claims against Defendants M. Flores and M. Stane for deliberate indifference to serious risk of
18 harm in violation of the Eighth Amendment; against Defendant M. Flores for harassment in
19 violation of the Eighth Amendment; and against Defendants M. Flores and M. Stane for
20 conspiracy.

21 These findings and recommendations are submitted to the United States district judge
22 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
23 **(14) days** after being served with these findings and recommendations, Plaintiff may file written
24 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
25 Findings and Recommendations.”

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1 Plaintiff is advised that failure to file objections within the specified time may result in
2 the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing
3 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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5 IT IS SO ORDERED.

6 Dated: September 4, 2019

/s/ Eric P. Grogan
7 UNITED STATES MAGISTRATE JUDGE