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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS EUGENE GRAY,)	No.: 1:20-cv-00196-SAB (PC)
)	
Plaintiff,)	
)	<u>ORDER ADOPTING FINDINGS AND</u>
v.)	<u>RECOMMENDATIONS, AND DISMISSING</u>
)	<u>WARDEN CLARK FROM THE ACTION</u>
KEN CLARK, et.al.,)	
)	(Doc. No. 10)
Defendants.)	
)	
)	
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)	

Plaintiff Thomas Eugene Gray is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 18, 2020, the court screened plaintiff’s complaint and found that plaintiff stated a cognizable failure to protect claim against defendants Sielken and Hurtado and a cognizable excessive force claim against defendant Jennings in violation of the Eighth Amendment. (Doc. No. 8.) The court ordered plaintiff to either file a first amended complaint or notify the court in writing of his willingness to proceed only on the cognizable claims. (*Id.*)

On February 28, 2020, plaintiff notified the court of his willingness to proceed only on the cognizable claims identified by the court on February 18, 2020. (Doc. No. 9.)

1 On March 3, 2020, the court issued findings and recommendations recommending that action
2 proceed against defendants Sielken and Hurtado for failure to protect and against defendant Jennings
3 for excessive force, and defendant Warden Clark be dismissed from the action for failure to state a
4 cognizable claim for relief. (Doc. No. 10.) The findings and recommendations were served upon
5 plaintiff with notice that he must file any objections within fourteen days. The period for objections
6 has passed without any party filing objections.

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

10 Accordingly,

- 11 1. The March 3, 2020 findings and recommendations (Doc. No. 1) are adopted in full;
- 12 2. This action shall proceed against defendants Sielken and Hurtado for failure to protect
13 and against defendant Jennings for excessive force; and
- 14 3. Defendant Warden Clark is dismissed from the action for failure to state a cognizable
15 claim for relief.

16
17 IT IS SO ORDERED.

18 Dated: March 31, 2020

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UNITED STATES DISTRICT JUDGE