

1 On December 7, 2023, Plaintiff filed a notice indicating his wish to proceed only on the
2 claim found cognizable by the Court. (*See* Doc. 27.)

3 **II. CONCLUSION AND RECOMMENDATIONS**

4 For the foregoing reasons, the Court **RECOMMENDS** that:

- 5 1. This action **PROCEED** only on Plaintiff’s Eighth Amendment excessive force claims
6 against Defendants Castillo, Castro and Fernandez, and failure to intervene claims
7 against Defendants Agatar and Haddad;
8 2. Defendant John Doe be **DISMISSED** from this action; and
9 3. Any remaining claims in Plaintiff’s first amended complaint be **DISMISSED**.

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

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18 IT IS SO ORDERED.

19 Dated: **December 11, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE