

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MORRIS ROBERSON,)	Case No.: 1:21-cv-00990-SAB (PC)
)	
Plaintiff,)	
)	
v.)	ORDER DIRECTING CLERK OF COURT TO
)	RANDOMLY ASSIGN A DISTRICT JUDGE TO
)	THIS ACTION
J. FARMBROUGH, et al.,)	
)	FINDINGS AND RECOMMENDATIONS
Defendants.)	RECOMMENDATION DISMISSAL OF CERTAIN
)	CLAIMS AND DEFENDANTS
)	
)	(ECF Nos. 10, 11)
)	

Plaintiff Morris Roberson is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 13 2021, the undersigned screened Plaintiff's complaint and found that he stated cognizable excessive force claim against Defendants Fambrough, Johnson, Silva, Bedolla and Furlong, a cognizable failure to intervene claim against Defendants Cruz and Rodriguez, and a cognizable claim for deliberate indifference to a serious medical need against Defendants Serna, Rhodes, and Dr. Goller. (ECF No. 10.) However, Plaintiff was advised that he failed to state any other cognizable claims. (*Id.*) Therefore, Plaintiff was advised that he could file an amended complaint or a notice of intent to proceed on the claim found to be cognizable. (*Id.*)

On September 7, 2021, Plaintiff notified the Court of his intent to proceed on the claims found to be cognizable. (ECF No. 11.) Thus, the Court will recommend that this action proceed on

1 Plaintiff's excessive force claim against Defendants Fambrough, Johnson, Silva, Bedolla and Furlong,
2 failure to intervene claim against Defendants Cruz and Rodriguez, and deliberate indifference claim
3 against Defendants Serna, Rhodes, and Dr. Goller. Fed. R. Civ. P. 8(a); Ashcroft v. Iqbal, 556 U.S.
4 662, 678 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007); Hebbe v. Pliler, 627 F.3d
5 338, 342 (9th Cir. 2010).

6 Accordingly, it is HEREBY ORDERED that the Clerk of the Court shall randomly assign a
7 District Judge to this action.

8 Further, it is HEREBY RECOMMENDED that:

- 9 1. This action proceed against Defendants Fambrough, Johnson, Silva, Bedolla and
10 Furlong for excessive force, against Defendants Cruz and Rodriguez for failure to
11 intervene, and against Defendants Serna, Rhodes, and Dr. Goller for deliberate
12 indifference to a serious medical need; and
- 13 2. All other claims and Defendants be dismissed for failure to state a cognizable claim.

14 These Findings and Recommendations will be submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**
16 after being served with these Findings and Recommendations, Plaintiff may file written objections
17 with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and
18 Recommendations." Plaintiff is advised that failure to file objections within the specified time may
19 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
20 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

21
22 IT IS SO ORDERED.

23 Dated: **September 9, 2021**


UNITED STATES MAGISTRATE JUDGE