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

EARNEST S. HARRIS,  
Plaintiff,  
v.  
E. MUNOZ, et al.,  
Defendants.

Case No. 1:21-cv-1800 JLT SKO (PC)  
**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO DISMISS  
CERTAIN CLAIMS AND DEFENDANTS**  
(Doc. 12)

Earnest S. Harris asserts that the defendants deprived him of his civil rights while incarcerated at California State Prison- Corcoran. (*See* Doc. 1.) The magistrate judge reviewed the allegations of Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff stated cognizable claims for: (1) excessive force in violation of the Eighth Amendment against Munoz and Arreguin, (2) deliberate indifference against Romero, (3) retaliation in violation of the First Amendment against Munoz and Arreguin, and (4) violation of due process against Munoz. However, the magistrate judge found Plaintiff’s remaining claims failed, including claims stated against Huerta. Therefore, the magistrate judge granted Plaintiff the option to file an amended complaint or notify the Court that he was willing to proceed only on the cognizable claims. (Doc. 8.)

On February 27, 2023, Plaintiff filed a notice indicating he accepted the Court’s findings concerning cognizable claims. (Doc. 9 at 1.) Accordingly, the magistrate judge issued Findings

1 and Recommendations, recommending defendant Huerta be dismissed from the action and the  
2 matter proceed only on the claims previously found cognizable. (Doc. 12 at 1-2.) The Findings  
3 and Recommendations were served on Plaintiff on March 7, 2023, and contained a notice that any  
4 objections were due within 14 days of the date of service. (*Id.* at 2.) Plaintiff was also informed  
5 the “[f]ailure to file objections within the specified time may result in waiver of rights on appeal.”  
6 (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014); *Baxter v. Sullivan*, 923 F.2d  
7 1391, 1394 (9th Cir. 1991).) Plaintiff did not file objections, and the time to do so has expired.

8 According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this  
9 case. Having carefully reviewed the entire matter, the Court concludes the Findings and  
10 Recommendations to be supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 11 1. The Findings and Recommendations dated March 7, 2023 (Doc. 12) are **ADOPTED**.
- 12 2. Defendant N. Huerta is **DISMISSED** from the action.
- 13 3. This action shall proceed only on Plaintiff’s claims for: (1) excessive force against  
14 Defendants Munoz and Arreguin; (2) a deliberate indifference to serious medical  
15 needs against Defendant Romero; (3) retaliation against Defendants Munoz and  
16 Arreguin; and (4) a due process violation against Defendant Munoz.
- 17 4. All other claims are **DISMISSED** without leave to amend.
- 18 5. The Clerk of Court is **DIRECTED** to update the docket and terminate N. Huerta as a  
19 defendant.
- 20 6. This action is referred to the magistrate judge for further proceedings.

21 IT IS SO ORDERED.

22 Dated: March 31, 2023

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25 UNITED STATES DISTRICT JUDGE  
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