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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ARKEEN EVANS,
Plaintiff,

v.

ERNESTO DIAZ, et al.,
Defendants.

No. 1:22-cv-00291-ADA-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS

(ECF No. 16)

Plaintiff David Arkeen Evans is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 5, 2022, the Magistrate Judge issued findings and recommendations that recommended this action proceed on Plaintiff's first amended complaint, filed July 7, 2022, (ECF No. 11), against: (1) Defendants E. Diaz and Ramirez for excessive force in violation of the Eight Amendment for spraying Plaintiff with OC spray; (2) Defendant Reed for excessive force in violation of the Eighth Amendment for ramming Plaintiff with his riot shield and pinning Plaintiff to a desk; (3) Defendants E. Diaz and Ramirez for excessive force in violation of the Eighth Amendment for applying excessively tight ankle restraints and dragging Plaintiff by the chain of the shackles into the hallway; (4) Defendants Martin, E. Diaz, Ramirez, and Marin for excessive force in violation of the Eighth Amendment for beating Plaintiff with batons in the allway; (5)

1 Defendants A. Aguilar and E. Figueroa for failure to intervene in violation of the Eighth
2 Amendment; (6) Defendant Bradford for deliberate indifference to serious medical needs in
3 violation of the Eighth Amendment for refusing to admit Plaintiff to a suicide crisis bed after
4 Plaintiff swallowed two razor blades with the intent of killing himself; and (8) Defendants
5 Stanley, Arrozola, and Aguilar for unconstitutional conditions of confinement in violation of the
6 Eighth Amendment. (ECF No. 16.) The Magistrate Judge further recommended dismissal of all
7 other claims and defendants based on Plaintiff's failure to state claims upon which relief may be
8 granted. (*Id.*) The findings and recommendations were served on Plaintiff and contained notice
9 that any objections were to be filed within fourteen days after service. (*Id.* at 23.) No objections
10 have been filed, and the deadline to do so has expired.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
12 de novo review of this case. Having carefully reviewed the entire file, the Court finds the
13 findings and recommendations to be supported by the record and proper analysis.

14 Accordingly,


- 15 1. The findings and recommendations issued on December 5, 2022, (ECF No. 16),
16 are adopted in full;
- 17 2. This action shall proceed on Plaintiff's first amended complaint, filed July 7, 2022,
18 (ECF No. 11), against:
 - 19 a. Defendants E. Diaz and Ramirez for excessive force in violation of the
20 Eighth Amendment for spraying Plaintiff with OC spray;
 - 21 b. Defendant Reed for excessive force in violation of the Eighth Amendment
22 for ramming Plaintiff with his riot shield and pinning Plaintiff to a desk;
 - 23 c. Defendants E. Diaz and Ramirez for excessive force in violation of the
24 Eighth Amendment for applying excessively tight ankle restraints and
25 dragging Plaintiff by the chain of the shackles into the hallway;
 - 26 d. Defendants Martin, E. Diaz, Ramirez, and Marin for excessive force in
27 violation of the Eighth Amendment for beating Plaintiff with batons in the
28 hallway;

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- e. Defendants A. Aguilar and E. Figueroa for failure to intervene in violation of the Eighth Amendment;
 - f. Defendant Bradford for deliberate indifference to serious medical needs in violation of the Eighth Amendment for refusing to admit Plaintiff to a suicide crisis bed after Plaintiff swallowed two razor blades with the intent of killing himself; and
 - g. Defendants Stanley, Arrozola, and Aguilar for unconstitutional conditions of confinement in violation of the Eighth Amendment;
3. All other claims and defendants are dismissed from this action for failure to state a claim upon which relief may be granted; and
 4. This action is referred back to the Magistrate Judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: January 19, 2023



UNITED STATES DISTRICT JUDGE