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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GENE RAYMOND MATTHEWS, III,

Plaintiff,

v.

S. RAMOS, et al.,

Defendants.

Case No. 1:22-cv-01508-SAB (PC)

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN A DISTRICT
JUDGE TO THIS ACTION

FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF
CERTAIN CLAIMS

(ECF Nos. 16, 17)

Plaintiff Gene Raymond Matthews, III is proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On December 9, 2022, the Court screened Plaintiff's first amended complaint, and found that he stated a cognizable claim against Defendants S. Ramos and G. King for failing to intervene during the use of assault by fellow inmates on November 1, 2021, and subsequently using force on Plaintiff. Plaintiff also stated a cognizable claim for excessive force against Defendants Ujeda and John Does one through three for also allegedly using excessive force upon him on November 1, 2021. (ECF No. 16.) However, Plaintiff failed to state any other cognizable claims. Plaintiff was granted the opportunity to file an amended complaint or notify the Court of his intent to proceed on the claims found to be cognizable. (Id.) On December 27, 2022, Plaintiff filed a notice of intent to proceed on the claims found to be cognizable. (ECF No. 17.)

1 Accordingly, it is HEREBY ORDERED that the Clerk of the Court shall assign a District
2 Judge to this action

3 Further, it is HEREBY RECOMMENDED that:

- 4 1. This action proceed against Defendants S. Ramos and G. King for failing to
5 intervene during the use of assault by fellow inmates on November 1, 2021, and
6 subsequently using force on Plaintiff, and against Defendants Ujeda and John
7 Does one through three for alleged use of excessive force on November 1, 2021;
8 and
- 9 2. All other claims be dismissed from the action for failure to state a cognizable
10 claim for relief.

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

19 IT IS SO ORDERED.

20 Dated: January 3, 2023

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23 UNITED STATES MAGISTRATE JUDGE
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