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

EDWARD TORRES,
Plaintiff,
v.
JAYSON QUICK, *et al.*,
DEFENDANTS.

Case No. 1:22-cv-01536-KES-EPG (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE AND COMPLY
WITH A COURT ORDER (ECF No. 73)

AND

ORDER FOR DEFENDANT ONTIVEROS TO
FILE STATUS REPORTS

AND

ORDER FOR ADDITIONAL BRIEFING
RELATED TO STAY

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

On July 11, 2024, the Court issued a revised screening order (ECF No. 62),¹ which required Plaintiff’s response within 30 days. This order was returned to the Court as undeliverable, and Plaintiff did not respond to it. The Court later re-served this screening order extended that deadline until September 23, 2024. After the extended deadline to respond to the

¹ The Court issued the revised screening order to reflect that—based on the new information in Defendant Ontiveros’s scheduling statement—Plaintiff’s claims against Defendants should proceed under the Fourteenth Amendment legal standards for pretrial detainees awaiting adjudication of criminal charges, rather than the Eighth Amendment legal standards for individuals who are confined after being convicted of a crime. (ECF No. 62 at 2).

1 Court's Revised Screening Order has passed and Plaintiff still did not respond, on October 8,
2 2024, the Court issued Findings and Recommendations recommending that this case be dismissed
3 for failure to prosecute and follow Court's orders. (ECF No. 73).

4 Since then, Plaintiff filed objections to the Findings and Recommendations (ECF No. 77)
5 and has responded to the revised screening order, electing to proceed on his cognizable claims.
6 (ECF No. 76). Plaintiff also timely opposed Motion for Summary Judgment. (ECF No. 74).

7 Accordingly, the Court will **VACATE** the findings and recommendations recommending
8 that this case be dismissed issued on October 8, 2024. (ECF No. 73). Consistent with its
9 Screening Order and Plaintiff's notice to proceed on his cognizable claims, the case will proceed
10 on Plaintiff's Fourteenth Amendment excessive force claims against Defendants Quick, Garza,
11 Garcia, Valadez, Prince, and Martinez; his Fourteenth Amendment failure to protect claims
12 against Defendants Quick, Garza, Garcia, Valadez, Prince, and Martinez; and his Fourteenth
13 Amendment claim against Defendant Ontiveros for deliberate indifference subject to his serious
14 medical needs. All other claims and defendants have already been dismissed from this action
15 following the first screening order. (ECF No. 22).

16 In addition, a notice of bankruptcy was filed November 19, 2024, on behalf of Defendant
17 Eva Ontiveros. (ECF No. 78.) At this time, and until further notice, Plaintiff's claims against
18 Defendant Ontiveros are **STAYED**. *See* 11 U.S.C. § 362. Defendant Ontiveros shall file a status
19 report within ninety days of the date of this order, and every ninety days thereafter, to advise the
20 Court of the status of the bankruptcy proceedings.

21 Finally, within 14 days of this order all parties shall file a response as to whether the
22 claims against other Defendants should be stayed as well.

23 Based on the foregoing, **IT IS ORDERED** that:

- 24 1. The Court's findings and recommendations recommending that this case be dismissed
25 for failure to prosecute and follow Court's orders issued on October 8, 2024 (ECF No.
26 73) are **VACATED**.
 - 27 2. Plaintiff's claims against Defendant Ontiveros are **STAYED**. *See* 11 U.S.C. § 362.
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3. Defendant Ontiveros shall file a status report within ninety days of the date of this order, and every ninety days thereafter, to advise the Court of the status of the bankruptcy proceedings.
4. Within 14 days of this order, all parties shall file a response as to whether the claims against other Defendants should be stayed as well.
5. Plaintiff is advised of his continuing duty under the Local Rules to keep the Court informed of his current address. L.R. 182(f) (“Each appearing attorney and pro se party is under a continuing duty to notify the Clerk and all other parties of any change of address or telephone number of the attorney or the pro se party. Absent such notice, service of documents at the prior address of the attorney or pro se party shall be fully effective.”); L.R. 183(b) (“A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.”). **Failure to comply with this order may result in dismissal of this action.**

IT IS SO ORDERED.

Dated: November 26, 2024

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE