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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD NELSON, et al.,

Plaintiffs,

No. CIV S-09-2776 JAM EFB P

vs.

BUTTE COUNTY SHERIFF'S
DEPARTMENT, et al.,

Defendants

ORDER

_____ /

Plaintiffs are prisoners proceeding through counsel in an action brought under 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 March 9, 2012, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY ORDERED that:

1 1. The findings and recommendations filed March 9, 2012, are adopted in full;

2 2. County Defendants' motion for summary judgment, Dckt. No. 14, is granted in
3 part and denied in part as follows:

4 a. GRANTED as to (a) plaintiff Simpson's § 1983 excessive force, assault
5 and battery, Bane Act, and intentional infliction of emotional distress claims against defendants
6 McNulty and Paley; (b) plaintiff Brewer's § 1983 Eighth Amendment claims against defendants
7 Flicker and Hovey; (c) plaintiff Canfield's assault and battery claims against defendants Narvais,
8 Maffucci, and unidentified officers; and (d) plaintiffs' breach of contract claim against County
9 Defendants, and that plaintiff Nelson's § 1983 claim against County Defendants and plaintiff
10 Brewer's § 1983 Eighth Amendment claims against defendants Morehead and Stockwell, be
11 dismissed without prejudice as unexhausted, and

12 b. DENIED as to (a) plaintiff Simpson's § 1983 excessive force, assault
13 and battery, and intentional infliction of emotional distress claims against defendant Deal; (b)
14 plaintiff Canfield's § 1983 Eighth Amendment claim for taking Canfield's crutches against
15 County Defendants; (c) plaintiff Canfield's § 1983 Eighth Amendment excessive force, Bane
16 Act, and assault and battery claims against defendant Flicker; (e) plaintiff Canfield's Bane Act
17 claim against defendants Demmers, Narvais, Maffucci, Mell, and Bentley; (f) plaintiff Canfield's
18 assault and battery claims against Mell, Bentley, and Demmers; (e) plaintiffs' Eighth
19 Amendment claims against the Butte County Sheriff's Department and defendant Jones in his
20 official capacity; and (f) plaintiffs' claim for violation of the consent decree against County
21 Defendants.

22 3. CFMG's motion for summary judgment against plaintiff Simpson, Dckt. No.
23 10, is DENIED as to plaintiff Simpson's § 1983 Eighth Amendment claim based on the eight-day
24 delay in providing medical care, and GRANTED in all other respects.

25 4. CFMG's motion for summary judgment against plaintiff Brewer, Dckt. No. 17,
26 is GRANTED.

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5. CFMG's motion for summary judgment against plaintiff Nelson, Dckt. No. 27,
is GRANTED.

DATED: April 9, 2012

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE