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

PENNY ARNOLD,

Plaintiff,

CIV S-10-3119 KJM GGH PS

vs.

COUNTY OF EL DORADO, et al.,

Defendants.

ORDER

_____ /

On November 23, 2011, the magistrate judge filed findings and recommendations, which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. On February 13, 2012, plaintiff was re-served with the findings and recommendations. No objections were filed.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having carefully reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed November 23, 2011 are ADOPTED.

3 2. Defendants' motion to dismiss and to strike, filed on October 7, 2011 (ECF
4 No. 17), is granted in part and denied in part as set forth in the Findings and Recommendations.
5 Specifically, the second amended complaint shall proceed without further amendment, but with
6 the following modifications:

7 a. The first cause of action is dismissed.

8 b. The second cause of action is construed to state a claim for excessive force
9 only.

10 c. The third cause of action is construed to state a claim for excessive force only.

11 d. All references to unreasonable or wrongful seizure or detention are stricken,
12 including those terms specified in the Findings and Recommendations on page 5.

13 e. Plaintiff's Monell claim against the County shall proceed only in regard to
14 plaintiff's excessive force claim.

15 3. Defendants shall file an answer to the Second Amended Complaint as
16 modified by the Findings and Recommendations within fourteen days of the filed date of this
17 order.

18 DATED: July 5, 2012.

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21 UNITED STATES DISTRICT JUDGE
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