

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES S. ALEXANDER.

No. 2:13-cv-2566 GEB CKD P

Plaintiff.

1

SOLANO COUNTY DETENTION  
FACILITY, et al.,

## ORDER AND

## FINDINGS AND RECOMMENDATIONS

## Defendants.

Before the court is plaintiff's motion to withdraw deemed admissions pursuant to Rule 36 of the Federal Rules of Civil Procedure. (ECF No. 50.) For the reasons discussed in the May 12, 2015 findings and recommendations, the court will grant this motion. (See ECF No. 48 at 8-9.)

Moreover, as there is a genuine dispute of material fact as to whether defendant used excessive force against plaintiff in violation of the Eighth Amendment (see id. at 8), the undersigned will recommend that defendant's motion for summary judgment be denied.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to withdraw deemed admissions (ECF No. 50) is granted.

IT IS HEREBY RECOMMENDED that defendant's motion for summary judgment (ECF No. 22) be denied.

|||||

1 These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
3 after being served with these findings and recommendations, plaintiff may file written objections  
4 with the court. The document should be captioned “Objections to Magistrate Judge’s Findings  
5 and Recommendations.” Plaintiff is advised that failure to file objections within the specified  
6 time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153  
7 (9th Cir. 1991).

8 || Dated: June 3, 2015

Carolyn K. Delaney  
CAROLYN K. DELANEY

CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

15 | 2 / alex2566.ord