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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH CANDLER,
Plaintiff,
v.
PRATHER, et al.,
Defendants.

No. 2:17-cv-0023-JAM-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. By order filed April 26, 2018, the court found that plaintiff had stated a potentially cognizable Eighth Amendment claim against defendants Prather and Romney for delaying plaintiff’s ability to decontaminate from O.C. pepper spray. ECF No. 9. The court informed plaintiff he could proceed against those defendants only or file an amended complaint within 30 days to cure the defects in his claims against defendants Kelso, Arya, and Spelman. *Id.* The time for amending has passed and plaintiff has elected to proceed only with the claim against defendants Prather and Romney. *See* ECF No. 12.

Accordingly, IT IS HEREBY RECOMMENDED that plaintiff’s claims against defendants Kelso, Arya, and Spelman be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
4 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
5 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

6 Dated: May 14, 2018.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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