1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 KEITH CANDLER, No. 2:17-cv-02436-TLN-CKD 12 Plaintiff. 13 v. **ORDER** 14 J. STEWART, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 18 19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On August 5, 2019, the magistrate judge filed findings and recommendations herein 21 which were served on all parties and which contained notice to all parties that any objections to 22 the findings and recommendations were to be filed within fourteen days. (ECF No. 36.) Neither party has filed objections to the findings and recommendations.¹ 23 24 Where, as here, neither party contests the proposed findings of fact, the Court presumes they are correct. (See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979).) The magistrate 25 26 The Court notes that, while Plaintiff did not file objections to the findings and 27 recommendations, he did file a motion to appoint counsel in which he acknowledges the recent 28 findings and recommendations. (ECF No. 37.) 1

1	judge's conclusions of law are reviewed de novo. (See Britt v. Simi Valley Unified School Dist.,
2	708 F.2d 452, 454 (9th Cir. 1983).) Having reviewed the file, the Court finds the findings and
3	recommendations to be supported by the record and by the magistrate judge's analysis.
4	Accordingly, IT IS HEREBY ORDERED that:
5	1. The findings and recommendations filed August 5, 2019 (ECF No. 36), are adopted in
6	full;
7	2. Plaintiff's motion for summary judgment (ECF No. 22) is DENIED;
8	3. Defendants' cross-motion for summary judgment (ECF No. 26) is GRANTED with
9	respect to Plaintiff's remaining claims for excessive force arising under the Eighth Amendment
10	and retaliation arising under the First Amendment against Defendant Lebeck; and
11	4. Defendants' cross-motion for summary judgment is DENIED as to Plaintiff's
12	remaining claims arising under the Eighth Amendment for denial of medical care against
13	Defendants Lebeck and Huynh.
14	IT IS SO ORDERED.
15	Dated: September 18, 2019
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19	Troy L. Nunley United States District Judge
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