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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN GARCIA RODRIGUEZ,  
Plaintiff,  
v.  
DAVID BAUGHMAN, et al.,  
Defendants.

No. 2:18-cv-0655 MCE CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Plaintiff’s first amended complaint is before the court for screening under 28 U.S.C. § 1915A(a). The court has conducted the required screening and finds that the amended complaint states a claim for use of excessive force arising under the Eighth Amendment against defendant Friend.

As for the other defendants identified, the amended complaint fails to state claims upon which relief can be granted. Plaintiff names 10 “Doe” defendants, but plaintiff fails to assert any allegations as to any of these defendants. As for Warden Baughman, plaintiff’s allegation that Baughman failed to protect plaintiff from Friend is vague and conclusory. In order to avoid dismissal for failure to state a claim a complaint must contain more than “naked assertions,” or “labels and conclusions.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-557 (2007). Plaintiff fails to point to any specific facts suggesting defendant Baughman’s conduct amounted

1 to deliberate indifference to a substantial risk of serious harm. Farmer v. Brennan, 511 U.S. 825,  
2 834, 837 (1994).

3 In accordance with the above, IT IS HEREBY RECOMMENDED that:

4 1. All claims other than a claim for excessive force arising under the Eighth Amendment  
5 against defendant Friend be dismissed; and

6 2. Defendant Friend be ordered to file his response to plaintiff's Eighth Amendment  
7 excessive force claim with fourteen days of adoption of the foregoing.

8 These findings and recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen after  
10 being served with these findings and recommendations, plaintiff may file written objections with  
11 the court. The document should be captioned "Objections to Magistrate Judge's Findings and  
12 Recommendations." Plaintiff is advised that failure to file objections within the specified time  
13 waives the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.  
14 1991).

15 Dated: May 13, 2020



16 CAROLYN K. DELANEY  
17 UNITED STATES MAGISTRATE JUDGE

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