



1 findings of fact to which no objection has been made, the Court assumes its correctness and  
2 decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th  
3 Cir. 1979). The magistrate judge’s conclusions of law are reviewed *de novo*. *See Britt v. Simi*  
4 *Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

5 Having carefully reviewed the entire file under the applicable legal standards, the Court  
6 finds the Findings and Recommendations to be supported by the record and by the magistrate  
7 judge’s analysis.

8 In his Objections to the Findings and Recommendations, Plaintiff requests that Magistrate  
9 Judge Carolyn Delaney be recused and/or disqualified due to purported abuse of discretion and an  
10 alleged failure to be impartial. (ECF No. 77 at 1–4.) The Court finds this request is wholly  
11 without merit. A motion to disqualify a judge cannot be granted absent a clear showing of “deep-  
12 seated favoritism or antagonism that would make fair judgment impossible.” *United States v.*  
13 *McTiernan*, 695 F.3d 882, 891–92 (9th Cir. 2012) (quoting *Liteky v. United States*, 510 U.S. 540,  
14 555 (1994)). Even “judicial remarks . . . that are critical or disapproving of, or even hostile to,  
15 counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.” *Id.* at  
16 892; *see also Liteky*, 510 U.S. at 555 (“[J]udicial rulings alone almost never constitute a valid  
17 basis for a bias or partiality motion.”).

18 Upon review of the record, the Court finds zero support for Plaintiff’s claims of bias or  
19 other reason to question the magistrate judge’s impartiality. To the contrary, the recommendation  
20 to grant summary judgment on Plaintiff’s excessive force, California Bane Act, and battery  
21 claims was based on security video footage that utterly discredited Plaintiff’s allegations, as well  
22 as Plaintiff’s own retreat from the Complaint’s excessive force language during his deposition  
23 testimony.<sup>1</sup> (*See* ECF No. 69 at 7–9.) Indeed, the Court cannot imagine a more impartial and

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25 <sup>1</sup> To the extent Plaintiff additionally purports to challenge the propriety of Judge Delaney’s  
26 other rulings throughout the course of this litigation, such as her recommendation to grant  
27 Defendants’ October 17, 2018 Motion to Dismiss, Plaintiff’s arguments are equally without merit.  
28 Rather, the Court notes that each of the contested rulings by Judge Delaney was issued in the  
form of findings and recommendations, which this Court adopted in full, and which Plaintiff  
failed to timely contest or otherwise seek reconsideration. (*See, e.g.*, ECF Nos. 20, 23, 41, 45, 56,  
59.)

1 objective ruling than one that is based upon clear video footage that, as here, has not been  
2 challenged as doctored or altered in any way. (*See generally* ECF No. 72 (Plaintiff's Opposition  
3 does not challenge authenticity of video but relies on it for certain arguments)); *see also Scott v.*  
4 *Harris*, 550 U.S. 372, 378 (2007). As such, to the extent Plaintiff's objections may be construed  
5 as a Request to Recuse/Disqualify Magistrate Judge Carolyn Delaney, Plaintiff's Request is  
6 hereby DENIED.

7 Plaintiff's remaining Objections appear to claim some form of fraud in the proceedings.  
8 (*See* ECF No. 77 at 5–8.) However, these arguments lack any non-conclusory factual predicate or  
9 other support. Therefore, Plaintiff's remaining objections are overruled.

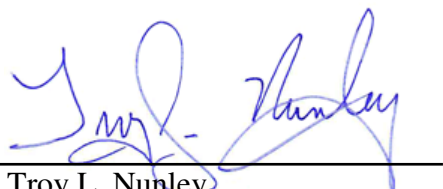
10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Findings and Recommendations filed November 18, 2020 (ECF No. 76), are  
12 adopted in full;
- 13 2. Defendant's Motion for Summary Judgment (ECF No. 69) is GRANTED;
- 14 3. Plaintiff's Request to Recuse/Disqualify Magistrate Judge Carolyn Delaney is  
15 DENIED;
- 16 4. This action is DISMISSED with prejudice; and
- 17 5. The Clerk of Court is directed to close this case.

18 IT IS SO ORDERED.

19 DATED: December 14, 2020

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Troy L. Nunley  
United States District Judge