1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ALLEN HAMMLER, No. 2:19-cv-01423-JAM-JDP (PC) 12 Plaintiff, 13 **ORDER** v. 14 E. COTA, 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 May 12, 2021, the magistrate judge filed findings and recommendations herein which 21 were served on plaintiff and which contained notice to plaintiff that any objections to the findings 22 and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to 23 the findings and recommendations. 24 The court presumes that any findings of fact are correct. See Orand v. United States, 602 25 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. 26 See Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the 27 magistrate judge are reviewed de novo by both the district court and [the appellate] court . . . . "). 28 Having reviewed the file, the court finds the findings and recommendations to be supported by 1

the record and by the proper analysis. Accordingly, IT IS HEREBY ORDERED that: 1. The findings and recommendations filed May 12, 2021, are adopted in full; 2. This action shall proceed on the third amended complaint's Eighth Amendment excessive force claims against defendants Cota and Reilly; 3. All other claims are dismissed without prejudice and without leave to amend. 4. This matter is referred back to the assigned magistrate judge for all further pretrial proceedings. Dated: September 23, 2021 /s/ John A. Mendez THE HONORABLE JOHN A. MENDEZ UNITED STATES DISTRICT COURT JUDGE