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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDON TAYLOR,  
Plaintiff,  
v.  
J. ALARDO, et al.,  
Defendants.

No. 2:19-cv-2241 WBS DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that defendants used excessive force against him in violation of his Eighth Amendment rights.

On March 30, 2020 a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) was filed on behalf of defendants Alardo, Martin, and Ochoa.<sup>1</sup> (ECF No. 20.) By order dated June 19, 2020, the undersigned informed plaintiff that failure to file a written opposition or statement of no opposition may be deemed a waiver of any opposition to the granting of defendants’ motion. (ECF No. 22.) Plaintiff was directed to file an opposition or statement of no opposition within sixty days. Those sixty days have passed, and plaintiff has not filed an opposition, statement of

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<sup>1</sup> Defendants D. Easley and the California Department of Corrections and Rehabilitation (“CDCR”) were dismissed on screening. (See ECF Nos. 12, 21.)

1 no opposition, requested additional time to do so, updated his address,<sup>2</sup> or otherwise responded to  
2 the court's order. Therefore, the court finds that plaintiff's failure to oppose should be deemed a  
3 waiver of opposition to the granting of the motion.

4 For the foregoing reasons, IT IS HEREBY RECOMMENDED that:

- 5 1. Defendants' March 30, 2020 motion to dismiss (ECF No. 20) be granted; and
- 6 2. This action be dismissed.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, any party may file written  
10 objections with the court and serve a copy on all parties. Such a document should be captioned  
11 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
12 objections shall be filed and served within fourteen days after service of the objections. The  
13 parties are advised that failure to file objections within the specified time may waive the right to  
14 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: November 18, 2020

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19 DEBORAH BARNES  
20 UNITED STATES MAGISTRATE JUDGE

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23 DB:12  
24 DB:1/Orders/Prisoner/Civil.Rights/tayl2241.mtd.f&rs

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26 <sup>2</sup> The court takes judicial notice of CDCR's Inmate Locator system located at  
27 <http://inmatelocator.cdcr.ca.gov> which reflects that plaintiff is now housed at California State  
28 Prison Sacramento. However, plaintiff's most recent change of address states that he is  
incarcerated at Mule Creek State Prison. See Louis v. McCormick & Schmick Restaurant Corp.,  
460 F.Supp.2d 1153, 1155 fn.4 (C.D. Cal. 2006) (the court may take judicial notice of state  
agency records).