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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUDIE ANTHONY JARAMILLO,
Plaintiff,
v.
T. TAPPAN, et al.,
Defendants.

No. 2:22-cv-00075-WBS-EFB (PC)

ORDER

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 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 12, 2024, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (Docket No. 63.) The Magistrate Judge recommended that plaintiff’s motion for summary judgment be denied.

Although neither party has filed objections to the findings and recommendations, the court notes that defendant filed a letter on May 16, 2024 asking for the status of his case. (Docket No. 65.) The court also notes that plaintiff has filed change of address notices three times since filing the motion for summary judgment. (Docket Nos. 55, 62, 64.) The first notice, indicating he was moved to California State Prison - Mule Creek, was filed April 6, 2023. The second notice,

1 indicating he was moved to California State Prison - Pleasant Valley, was filed January 16, 2024,
2 almost a month before the issuance of the findings and recommendations. The third notice,
3 indicating he was moved to back to CSP - Mule Creek, was filed April 4, 2024, almost two
4 months after the issuance of the findings and recommendations. The docket also reflects that the
5 court's findings and recommendations were mailed to plaintiff's address at CSP Pleasant Valley
6 on February 12, 2024. Thus, notwithstanding the ambiguity of plaintiff's May 16, 2024 letter and
7 plaintiff's multiple transfers, it appears that the findings and recommendations were received by
8 plaintiff with sufficient time to file any objections.

9 The court has reviewed the file and finds the findings and recommendations to be
10 supported by the record and by the magistrate judge's analysis. Accordingly, IT IS HEREBY
11 ORDERED that:

- 12 1. The findings and recommendations filed February 12, 2024 (Docket No. 63), are
13 adopted in full;
- 14 2. Plaintiff's March 28, 2023 motion for summary judgment (Docket No. 53) is DENIED.
- 15 3. Plaintiff shall proceed on his Eighth Amendment claim for excessive force against
16 defendant Tappan.

17 Dated: June 4, 2024



18 WILLIAM B. SHUBB
19 UNITED STATES DISTRICT JUDGE
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