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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARNELL DUKES,)	Civil No. 09cv1463-L(WVG)
)	
Plaintiff,)	
)	
v.)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION AND
K. SPENCE, <i>et al.</i> ,)	GRANTING DEFENDANTS'
)	MOTION FOR PARTIAL
Defendants.)	SUMMARY JUDGMENT
_____)	

Plaintiff Darnell Dukes, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this action under 42 U.S.C. § 1983 alleging Eighth Amendment violations for use of excessive force against numerous Defendants. The case was referred to United States Magistrate Judge William V. Gallo for a report and recommendation in accordance with 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.3.

Three of the seven Defendants moved for summary judgment with respect to Plaintiff’s excessive force claims. The Magistrate Judge issued a Report and Recommendation, recommending the summary judgment motion be granted with respect to claims asserted against Defendants K. Spence, K. Smith and J. Ponce. Plaintiff filed no objections.

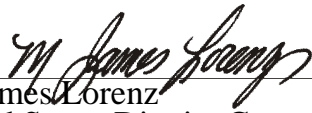
A district judge may accept, reject, or modify the recommended decision on a dispositive matter prepared by a magistrate judge proceeding without the consent of the parties for all purposes. Fed. R. Civ. P. 72(b); *see* 28 U.S.C. § 636(b)(1). “The court shall make a *de novo*

1 determination of those portions of the [report and recommendation] to which objection is
2 made.” 28 U.S.C. § 636(b)(1). Section 636(b)(1) does not require some lesser review by the
3 district court when no objections are filed. *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). The
4 “statute makes it clear that the district judge must review the magistrate judge’s findings and
5 recommendations *de novo if objection is made, but not otherwise.*” *United States v.*
6 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (emphasis in the original); *see*
7 *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1225-26 & n.5 (D. Ariz. 2003).

8 In the absence of any objections, the court **ADOPTS** the Report and Recommendation.
9 Defendants’ motion for summary judgment with respect to claims asserted against Defendants
10 K. Spence, K. Smith and J. Ponce is **GRANTED**.

11 **IT IS SO ORDERED.**

12
13 DATED: June 15, 2011

14 
15 M. James Lorenz
16 United States District Court Judge

17 COPY TO:

18 HON. WILLIAM V. GALLO
19 UNITED STATES MAGISTRATE JUDGE

20 ALL PARTIES/COUNSEL
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