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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SHARIFFE VAUGHN,  
  
Plaintiff,  
  
v.  
  
DEREK A. HAMPTON, correctional  
sergeant, F. CANLAS, correctional  
officer, J. CUEVAS, correctional officer,  
B. GOMEZ, correctional officer, J.  
ORSATT, correctional officer, and T.  
SOTO, correctional officer,  
  
Defendants.

Case No.: 19-cv-01687-H-KSC

**ORDER:**

- (1) GRANTING IN PART AND DENYING IN PART DEFENDANTS CUEVAS, GOMEZ, HAMPTON, ORSATT, AND SOTO’S MOTION FOR SUMMARY JUDGMENT; AND**
- (2) GRANTING DEFENDANT CANLAS’S MOTION FOR SUMMARY JUDGMENT**

[Doc. No. 42.]

On December 23, 2020, Defendants B. Gomez, T. Soto, F. Canlas, J. Cuevas, D. Hampton, and J. Orsatt (collectively, “Defendants”) filed a motion for summary judgment. (Doc. No. 42.) On January 25, 2021, Plaintiff Shariffe Vaughn (“Plaintiff”) filed an opposition in response to Defendants’ motion for summary judgment. (Doc. No. 47.) On February 11, 2021, Defendants filed a reply. (Doc. No. 51.) The Court held a hearing on

1 the matter on February 22, 2021. (Doc. No. 52.) Ken Karan appeared on behalf of Plaintiff  
2 and Terrence Sheehy appeared on behalf of Defendants. (Id.) With the Court’s permission,  
3 Defendants filed a corrected reply on February 23, 2021. (Doc. No. 53.) For the following  
4 reasons, the Court grants in part and denies in part Defendants’ motion for summary  
5 judgment.

6 **Background**

7 Plaintiff was a prisoner housed at the R.J. Donovan State Prison (“RJD”) in 2018.  
8 (Doc. No. 50, Vaughn Decl. ¶ 2.) Defendants are correctional officers who worked at RJD  
9 during the relevant periods of this lawsuit. (Doc. No. 42-2, Canlas Decl. ¶ 1; Doc. No. 42-  
10 3, Cuevas Decl. ¶ 1; Doc. No. 42-4, Gomez Decl. ¶ 1; Doc. No. 42-5, Hampton Decl. ¶ 1;  
11 Doc. No. 42-6, Orsatt Decl. ¶ 1; Doc. No. 42-7, Soto Decl. ¶ 1.) Plaintiff’s claims against  
12 Defendants arise from two alleged incidents that occurred on December 14 and 17, 2018.  
13 (Vaughn Decl. ¶¶ 3, 15.)

14 **The Food Port Incident**

15 On December 14, 2018, Defendants Gomez and Soto oversaw the feeding of  
16 Plaintiff’s housing unit. (Vaughn Decl. ¶ 3.) According to Plaintiff, when they delivered  
17 his morning meal, he asked them to provide him with copies of legal papers related to his  
18 lawsuit against their colleague, Correctional Officer A. Parker.<sup>1</sup> (Id. ¶ 3.) Although Gomez  
19 and Soto were not in charge of making legal copies for inmates, (Gomez Decl. ¶ 3; Soto  
20 Decl. ¶ 3), in Plaintiff’s experience, officers in their position regularly provide inmates  
21 with legal documents, (Vaughn Decl. ¶ 5). Plaintiff claims that both Gomez and Soto  
22 refused his request and left to finish feeding the remaining inmates. (Id.)

23 According to Plaintiff, when Gomez and Soto returned to Plaintiff’s cell to pick up  
24 his food tray, Plaintiff requested to speak to their sergeant. (Id. ¶ 4.) The officers again  
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26 <sup>1</sup> On September 7, 2018, Plaintiff filed a complaint against Correctional Officer A. Parker, one of  
27 Defendants’ coworkers, in which Plaintiff alleged, among other things, that Parker used excessive force  
28 against him while he lived in RJD. Complaint, Vaughn v. Parker, No. 18-cv-2098-JAH-MDD (S.D. Cal.  
Sept. 7, 2018), Doc. No. 1. The case is currently pending in this district. Neither side made a request for  
this case to be transferred under the Court’s Low Number Rule, Local Rule 40.1(e).

1 refused. (Id.) In protest, Plaintiff put his hands and portions of his jumpsuit through his  
2 cell's food port door, inhibiting the officers' ability to close the port. (Id.) Plaintiff cites  
3 to the California Department of Corrections and Rehabilitation Operations Manual to  
4 explain that Gomez and Soto should have called their sergeant in this situation. (Doc. No.  
5 47-2, Ex. 12.) But the policy permits controlled force while custody staff continue to  
6 monitor the inmate. (Id.; see also Gomez Decl. ¶ 5; Soto Decl. ¶ 5.) Plaintiff claims that  
7 Gomez and Soto forcefully grabbed his hands and jumpsuit, pulling them through the port.  
8 (Vaughn Decl. ¶ 6.) Plaintiff then claims that they slammed the port door on his left hand,  
9 causing him "extreme pain." (Id. ¶ 7.) At least one other inmate witnessed the incident  
10 and reports seeing Plaintiff's hand get smashed in the food port by the officers. (Doc. No.  
11 47-2, Ex. 2, McKinley Decl.) After the event, Plaintiff reported Gomez and Soto's use of  
12 force. (Vaughn Decl. ¶ 11.)

13 Gomez and Soto have a different version of these events. According to them,  
14 Plaintiff only demanded legal documents upon their return to his cell to pick up his food  
15 tray, after he captured the food port. (Gomez Decl. ¶¶ 2-3; Soto Decl. ¶¶ 2-3.) At that  
16 time, the officers asked him to release the port so that they could continue collecting food  
17 trays and instructed him to ask a legal officer for those documents. (Gomez Decl. ¶¶ 3-4;  
18 Soto Decl. ¶¶ 3-4.) According to the officers, Plaintiff refused to release his hands from  
19 the port, stating that he was engaged in a "peaceful protest." (Gomez Decl. ¶ 4; Soto Decl.  
20 ¶ 4.) They then both worked together to clear the port and, once Plaintiff's hands and  
21 jumpsuit were no longer in the way of the food port door, they secured it. (Gomez Decl. ¶  
22 4; Soto Decl. ¶ 4.)

23 Defendants support their story with medical records indicating that Plaintiff's hand  
24 was not injured during the event. (Doc. No. 42-1, Ex. I.) As they explain, a nurse who  
25 saw him later in the day observed that all the fingers in his left hand were "moving freely,"  
26 and the swelling on one of his fingers was consistent with one of Plaintiff's previous  
27 injuries. (Id.) A few weeks prior to this incident, Plaintiff was diagnosed with a "Closed  
28 Bennett's fracture of [his] left thumb with delayed healing" from a fight with another

1 inmate. (Doc. No. 42-1, Ex. G.) After the food port incident, a medical practitioner  
2 instructed Plaintiff to take some ibuprofen and follow up if his case worsened. (Doc. No.  
3 42-1, Ex. I.) X-rays of Plaintiff's hand taken a few days later ultimately "showed no new  
4 injuries or fractures." (Id.)

### 5 **The Cell Door Incident**

6 On December 17, 2018, escort officers transported Plaintiff from the medical clinic  
7 to his housing facility. (Cuevas Decl. ¶ 2; Hampton Decl. ¶ 2; Orsatt Decl. ¶ 2; Vaughn  
8 Decl. ¶ 15.) Cuevas and Orsatt met Plaintiff at the sally port, a hallway from which Plaintiff  
9 was to enter his housing unit. (See Vaughn Decl. ¶¶ 9-13.) According to Plaintiff, it was  
10 unusual for Cuevas and Orsatt to meet him there because the escort officers typically take  
11 inmates directly to their cells. (Id. ¶ 11.) The officers contend that they met Plaintiff in  
12 the sally port for valid penological reasons. (Cuevas Decl. ¶¶ 2-3; Hampton Decl. ¶¶ 4-5;  
13 Orsatt Decl. ¶¶ 2-3.) Cuevas alleges that he told Hampton, the sergeant, that Plaintiff had  
14 a history of capturing handcuffs. (Cuevas Decl. ¶¶ 2-3; Hampton Decl. ¶ 5.) As Hampton  
15 explains, based on this information, he decided to use a triangle retention device to limit  
16 Plaintiff's ability to retain his handcuffs during the transfer. (Hampton Decl. ¶ 5.)  
17 According to Hampton, he attended the transfer to oversee the use of the device. (Id.)

18 When Plaintiff arrived at the sally port, he laid face down on the ground. (Doc. No.  
19 42-1, Ex. A at 3:25.) Plaintiff says he did this because Cuevas and Orsatt ordered him to  
20 do so. (Vaughn Decl. ¶ 10.) Cuevas and Orsatt claim that Plaintiff dropped to the floor on  
21 his own volition. (Cuevas Decl. ¶ 3; Orsatt Decl. ¶ 3.) While Plaintiff was lying on the  
22 ground, Hampton arrived at the sally port. (Doc. No. 42-1, Ex. A at 4:30 to 6:30.) Then,  
23 Cuevas affixed a triangle retention device to Plaintiff's handcuffs in the presence of  
24 Hampton and Orsatt. (Doc. No. 47-1, Pl's Statement of Disputed Facts ("SDF") at 15.)  
25 Officers Cuevas and Orsatt claim that Plaintiff began to shout obscenities at them during  
26 this time. (Cuevas Decl. ¶ 3; Orsatt Decl. ¶ 4.) Plaintiff denies these claims and instead  
27 alleges that the officers threatened him for being a "snitch," among other things, while he  
28 was on the ground and throughout his transfer. (Vaughn Decl. ¶¶ 9-15.)

1 Cuevas, Orsatt, and Hampton eventually escorted Plaintiff to his cell. (SDF at 16.)  
2 When they arrived at Plaintiff's cell, Hampton ordered his cellmate out. (Id. at 18.)  
3 Plaintiff fell to his knees at the threshold of the cell door. (Doc. No. 42-1, Ex. C at 7:40.)  
4 According to Cuevas and Orsatt, at this time, Plaintiff began shouting that he was  
5 "peacefully protesting." (Cuevas Decl. ¶ 5; Orsatt Decl. ¶ 6.) Cuevas then is seen on the  
6 surveillance video removing Plaintiff's leg restraints and, after the restraints were removed,  
7 Plaintiff stood up and entered the cell. (Doc. No. 42-1, Ex. C. at 7:50 to 8:15.) The officers  
8 motioned to have the cell door closed, and Defendant Canlas, the officer stationed in the  
9 control room at the time, closed the door.<sup>2</sup> (See id. at 8:15.) When the door was closed,  
10 Cuevas and Orsatt contend that Plaintiff impeded Cuevas's efforts to remove Plaintiff's  
11 handcuffs and the triangle retention device. (Cuevas Decl. ¶ 6; Orsatt Decl. ¶ 6.) Plaintiff  
12 claims that he was on his knees at the time, shouting for help. (Vaughn Decl. ¶ 16.) Cuevas  
13 then signaled for the cell door to open. (Doc. No. 42-1, Ex. C. at 9:20.) When the door  
14 opened, Plaintiff was on the ground. (See id. at 9:30; Vaughn Decl. ¶ 16.)

15 The surveillance video then shows Hampton escorting Plaintiff's cellmate away  
16 from the cell. (Doc. No. 42-1, Ex. C at 10:23 to 10:40.) In his declaration, Hampton stated  
17 that he did this to ensure the cellmate's safety. (Hampton Decl. ¶ 8.) Hampton also stated  
18 in a deposition that the cellmate asked him to be removed from the situation and moved to  
19 a different cell. (Doc. No. 47-2, Ex. 7, Hampton Dep. at 59-60.) Plaintiff's cellmate claims  
20 that he never made these requests. (Id., Ex. 2, McKinley Decl.)

21 After Hampton left with Plaintiff's cellmate, Plaintiff asserts that Cuevas signaled  
22 for the cell door to close while Plaintiff was still within the threshold of the door. (SDF at  
23 29; Vaughn Decl. ¶¶ 16, 19.) The surveillance video depicts Cuevas making a hand gesture  
24 while Orsatt and him were near the cell door with Plaintiff. (Doc. No. 42-1, Ex. C at 10:40  
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26 <sup>2</sup> The officers in the housing unit cannot open and close the cell doors on their own. (SDF at 24.)  
27 They must signal an officer in the control room who opens the cell door by pressing a button. (Id.)  
28 Usually, this signal is given either verbally or by waiving one's hand in the direction of the door. (Id.) At  
this time, Canlas was in the control room and oversaw the opening and closing of cell doors. (Canlas  
Decl. ¶ 2.)

1 to 11:00.) Cuevas claims that he moved his hand to communicate to another officer on the  
2 cell block. (Cuevas Decl. ¶¶ 8, 12.) In any event, Canlas interpreted this motion as a signal  
3 to close the door and began to close it. (Canlas Decl. ¶ 5.) The surveillance video depicts  
4 the door closing a few inches. (Doc. No. 42-1, Ex. C at 10:40 to 11:20.) The video also  
5 shows Plaintiff moving from his knees to the ground. (Id.)

6 According to Plaintiff, the door struck him in the head and neck, injuring him.  
7 (Vaughn Decl. ¶¶ 18-19.) After the cell door purportedly closed on him, Plaintiff lay still  
8 on the ground, during which time Hampton returned. (Doc. No. 42-1, Ex. C at 11:00 to  
9 12:00.) At this time, Cuevas, Hampton, and Orsatt claim that Plaintiff made a threat against  
10 Hampton's life. (Hampton Decl. ¶ 17; Cuevas Decl. ¶ 9; Orsatt Decl. ¶ 11.) According to  
11 them, he stated the following: "[I]n fifty-one days I will be getting out. I will find you and  
12 put my pistol in your face and unload it into your head!" (Hampton Decl. ¶ 17; Cuevas  
13 Decl. ¶ 9; Orsatt Decl. ¶ 11.) Hampton reported this threat later that day. (Hampton Decl.  
14 ¶¶ 17-18.) Plaintiff, on the other hand, denies making such a threat and claims that  
15 Hampton threatened to falsely report him. (Vaughn Decl. ¶ 21.) Additionally, an inmate  
16 claims to have overheard Hampton tell another correctional officer that he filed a false  
17 report against Plaintiff to protect himself. (Doc. No. 47-2, Ex. 5, Mejias Decl.) Hampton's  
18 report was not adjudicated by RJD. (Hampton Decl. ¶¶ 17-18.)

19 When Plaintiff was taken to receive medical attention later that day, the clinician  
20 who examined him concluded that his reports of neck pain and paralysis were "factitious"  
21 and "disproved by exam." (Doc. No. 42-1, Ex. L.) A doctor who saw him the following  
22 day confirmed that his neck x-rays were negative. (Id., Exs. I, K.) A clinician who  
23 observed him a few days later, on December 21, 2018, noted that Plaintiff could move all  
24 his extremities, including his neck, and concluded that Plaintiff had "no . . . significant  
25 deformity or injury." (Id., Ex. O.) Further, Plaintiff moved his head and neck in his  
26 interviews taken after cell door incident, (id., Exs. D, E, F), grappled with his brother when  
27 he left prison, (id., Ex. J at 100-02), and complained that his neck was also injured as a  
28



1 result of other, unrelated incidents that occurred after December 17, 2018, (id., Exs. M, N,  
2 O, P).

3 Correctional officers interviewed Plaintiff about the cell door incident three times  
4 over the course of the next several days. (Id., Exs. D, E, F.) On December 17, 2018, the  
5 day of the incident, Plaintiff described the events as a “misunderstanding,” stating that he  
6 and the parties involved “just had a bad day.” (Id., Ex. D.) Plaintiff, however, explains  
7 that he only made these statements because Correctional Officer Moore, who conducted  
8 the interview, told him that he would make Hampton’s threat allegations disappear if  
9 Plaintiff downplayed what happened. (Vaughn Decl. ¶ 22.) On December 18, 2018, the  
10 next day, Plaintiff recanted these statements and accused Hampton of shoving his head in  
11 front of the closing cell door and threatening him with a false report. (Doc. No. 42-1, Ex.  
12 E.) On a third interview, on December 21, 2018, Plaintiff reiterated the claims made in his  
13 second interview. (Id., Ex. F.) Plaintiff now admits that Hampton was not present when  
14 the door was closed on him, but Plaintiff was on the ground throughout most of the events.  
15 (SDF at 38-39.)

16 Plaintiff’s second amended complaint alleges various claims against Defendants for  
17 the violation of his First and Eighth Amendment rights, 42 U.S.C. §§ 1985-86, and various  
18 California laws. (Doc. No. 22-1.) Defendants move for summary judgment on each of  
19 these claims. (Doc. No. 42.)

## 20 Discussion

### 21 **I. Standard of Review**

22 Summary judgment is appropriate under Rule 56 of the Federal Rules of Civil  
23 Procedure if the moving party demonstrates that there is no genuine issue of material fact  
24 and that it is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a); Celotex Corp.  
25 v. Catrett, 477 U.S. 317, 322 (1986). A fact is material when, under the governing  
26 substantive law, it could affect the outcome of the case. Anderson v. Liberty Lobby, Inc.,  
27 477 U.S. 242, 248 (1986); Fortune Dynamic, Inc. v. Victoria’s Secret Stores Brand Mgmt.,  
28 Inc., 618 F.3d 1025, 1031 (9th Cir. 2010). “A genuine issue of material fact exists when

1 the evidence is such that a reasonable jury could return a verdict for the nonmoving party.”  
2 Fortune Dynamic, 618 F.3d at 1031 (internal quotation marks and citations omitted);  
3 accord Anderson, 477 U.S. at 248. “Disputes over irrelevant or unnecessary facts will not  
4 preclude a grant of summary judgment.” T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors  
5 Ass’n, 809 F.2d 626, 630 (9th Cir. 1987).

6 A party seeking summary judgment always bears the initial burden of establishing  
7 the absence of a genuine issue of material fact. Celotex, 477 U.S. at 323. The moving  
8 party can satisfy this burden in two ways: (1) by presenting evidence that negates an  
9 essential element of the nonmoving party’s case; or (2) by demonstrating that the  
10 nonmoving party failed to establish an essential element of the nonmoving party’s case that  
11 the nonmoving party bears the burden of proving at trial. Id. at 322-23; Jones v. Williams,  
12 791 F.3d 1023, 1030 (9th Cir. 2015).

13 Once the moving party establishes the absence of a genuine issue of material fact,  
14 the burden shifts to the nonmoving party to “set forth, by affidavit or as otherwise provided  
15 in Rule 56, ‘specific facts showing that there is a genuine issue for trial.’” T.W. Elec. Serv.,  
16 809 F.2d at 630 (quoting former Fed. R. Civ. P. 56(e)); accord Horphag Research Ltd. v.  
17 Garcia, 475 F.3d 1029, 1035 (9th Cir. 2007). To carry this burden, the non-moving party  
18 “may not rest upon mere allegation or denials of his pleadings.” Anderson, 477 U.S. at  
19 256; see also Behrens v. Pelletier, 516 U.S. 299, 309 (1996) (“On summary judgment, . . .  
20 the plaintiff can no longer rest on the pleadings.”). Rather, the nonmoving party “must  
21 present affirmative evidence . . . from which a jury might return a verdict in his favor.”  
22 Anderson, 477 U.S. at 256.

23 When ruling on a summary judgment motion, the court must view the facts and draw  
24 all reasonable inferences in the light most favorable to the non-moving party. Scott v.  
25 Harris, 550 U.S. 372, 378 (2007). The court should not weigh the evidence or make  
26 credibility determinations. See Anderson, 477 U.S. at 255. Further, the Court may  
27 consider other materials in the record not cited to by the parties, but it is not required to do  
28



1 so.<sup>3</sup> Fed. R. Civ. P. 56(c)(3).

2 **II. Plaintiff’s Claims Under the Eighth Amendment**

3 Plaintiff brings excessive force claims against Defendants, alleging that Defendants  
4 violated his rights under the Eighth Amendment. (Doc. No. 22-1 ¶¶ 50-88.) “The Eighth  
5 Amendment prohibits cruel and unusual punishment in penal institutions.” Wood v.  
6 Beauclair, 692 F.3d 1041, 1045 (9th Cir. 2012). “After incarceration, only the unnecessary  
7 and wanton infliction of pain . . . constitutes cruel and unusual punishment forbidden by  
8 the Eighth Amendment.” Whitley v. Alters, 475 U.S. 312, 319 (1986) (omission in  
9 original) (internal quotation marks and citation omitted). “The ‘core judicial inquiry’ in  
10 excessive force cases is ‘whether force was applied in a good-faith effort to maintain or  
11 restore discipline, or maliciously and sadistically to cause harm.’” Hoard v. Hartman, 904  
12 F.3d 780, 788 (9th Cir. 2018) (quoting Hudson v. McMillian, 503 U.S. 1, 7 (1992)). If the  
13 evidence, “viewed in the light most favorable to the plaintiff, will support a reliable  
14 inference of wantonness,” the case should be submitted to a jury. Whitley, 475 U.S. at  
15 322.

16 **A. The Food Port Incident**

17 The parties dispute whether Gomez and Soto used excessive force in the food port.  
18 (SDF at 6.) According to Defendants, Plaintiff’s hand was not slammed in the food port  
19 door. (Gomez Decl. ¶ 4; Soto Decl. ¶ 4.) In support, they point to several medical reports  
20 that indicate Plaintiff sustained no new injuries from the food port incident. (Doc. No.  
21 42-1, Ex. I.) Specifically, a medical record that explains Plaintiff fractured his thumb a  
22 few weeks before the food port incident in a fight with another inmate. (Id., Ex. G.)  
23 Plaintiff submitted a conflicting declaration in which he claims that Gomez and Soto  
24 slammed his hand in the food port, causing him pain. (Vaughn Decl. ¶ 7.) At least one  
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27  
28 <sup>3</sup> The Court grants the parties various evidentiary objections where valid and denies them where  
invalid.

1 other inmate submitted a declaration claiming to have witnessed the officers smash  
2 Plaintiff's hand into the food port. (Doc. No. 47-2, Ex. 2, McKinley Decl.)

3 On the issue of intent, the parties also dispute whether Gomez and Soto were aware  
4 that Plaintiff had filed a lawsuit against Parker. (Gomez Decl. ¶ 6; Soto Decl. ¶ 6; Vaughn  
5 Decl. ¶¶ 3-7.) According to Gomez and Soto, they were unaware of Plaintiff's pending  
6 lawsuit. (Gomez Decl. ¶ 6; Soto Decl. ¶ 6.) Plaintiff submitted a declaration explaining  
7 that Gomez and Soto must have known about the lawsuit because he asked them to provide  
8 him copies of it shortly before the incident. (Vaughn Decl. ¶¶ 3-7.) Plaintiff claims he  
9 used Parker's name when making this request. (Id. ¶ 3.)

10 Based on parties' conflicting version of the events, the Court denies Defendants'  
11 motion for summary judgment with respect to Plaintiff's Eighth Amendment claims  
12 against Gomez and Soto. See Harris v. Itzhaki, 183 F.3d 1043, 1051 (9th Cir. 1999)  
13 (explaining that issues of intent are generally best reserved for a jury); Riley v. Franke, No.  
14 17-CV-891-JPS, 2018 WL 3717027, at \*7 (E.D. Wis. Aug. 3, 2018) (citation omitted)  
15 (explaining that an officer's awareness and intent in shutting a food port door on an inmate  
16 is generally a question of material fact).

### 17 **B. The Cell Door Incident**

18 Defendants argue that Canlas, Cuevas, Hampton, and Orsatt did not violate  
19 Plaintiff's Eighth Amendment rights during the cell door incident because they did not shut  
20 the cell door intentionally and, in any event, Plaintiff sustained no injuries. (Doc. No. 42  
21 at 16-18.) Canlas, Cuevas, Hampton, and Orsatt each submitted declarations stating that  
22 they did not know about Plaintiff's lawsuit against Parker or his complaints against Gomez  
23 and Soto, and Plaintiff's contentions otherwise are merely speculative. (See Canlas Decl.  
24 ¶ 7; Cuevas Decl. ¶ 11; Hampton Decl. ¶ 21; Orsatt Decl. ¶ 13). Additionally, Defendants  
25 assert that Cuevas's hand motion was actually directed at another officer in the housing  
26 unit. (Cuevas Decl. ¶ 8; Orsatt Decl. ¶¶ 7-9.) As such, Cuevas claims that he did not intend  
27 for Canlas to shut the cell door when he made this motion. (Cuevas Decl. ¶ 8; Orsatt Decl.  
28 ¶¶ 7-9.)

1 Plaintiff submits conflicting evidence regarding Cuevas, Hampton, and Orsatt.  
2 Hampton was Parker’s supervisor at the time the Parker incident occurred in 2017 and was  
3 deposed as a witness in the Parker case. Hampton Dep., Vaughn v. Parker, No. 18-cv-  
4 2098-JAH-MDD (S.D. Cal. Sept. 3, 2019), Doc. No. 44-4, Ex. 15. Hampton was not  
5 formally notified of the Parker lawsuit until after the events in question. (Hampton Decl.  
6 ¶ 21.) But Plaintiff submitted a declaration from an inmate who claims that, in 2017, he  
7 overheard Hampton telling Parker to not worry about an internal complaint filed by  
8 Plaintiff against Parker because Hampton would set Plaintiff up if Plaintiff caused any  
9 further problems. (Doc. No. 47-2, Hale Decl.) Additionally, Cuevas, in his deposition,  
10 mentioned that he overheard Plaintiff shouting about his lawsuit against Parker “a bunch  
11 of times” prior to the cell door incident. (Doc. No. 47-2, Ex. 3, Cuevas Dep. at 37-38.)  
12 Further, Plaintiff alleges that Cuevas, Hampton, and Orsatt called him a “snitch” while they  
13 were transporting him to his cell. (Vaughn Decl. ¶ 15.) Plaintiff also questions their  
14 intentions in using a triangle device on him because Defendants have not produced any  
15 administrative record from which the officers could have known of Plaintiff’s history of  
16 capturing handcuffs. (SDF at 14-15.) Cuevas maintains that he was informally made  
17 aware of this history during a shift change. (Cuevas Dep. at 54-56.) In light of the  
18 conflicting evidence, the Court denies Defendants’ motion for summary judgment with  
19 respect to Plaintiff’s Eighth Amendment claims against Cuevas, Hampton, and Orsatt.

20 As to Canlas, the control room officer, Plaintiff fails to raise a triable issue of  
21 material fact. Canlas’s only involvement was in the control room and he was unaware that  
22 Plaintiff was within the threshold of the door when he closed it. (Canlas Decl. ¶¶ 5-10.)  
23 Additionally, Cuevas’s hand signal, depicted on the surveillance video, made it reasonable  
24 for Canlas to close the door. Thus, Canlas is entitled to summary judgment with respect to  
25 Plaintiff’s excessive force claim against him. See Farmer v. Brennan, 511 U.S. 825, 826,  
26 837-40 (1994) (explaining that “prison officials may not be held liable [under the Eighth  
27 Amendment] if they prove that they were unaware of even an obvious risk” to the  
28 prisoner’s safety).

### 1 III. Plaintiff's Claims Under the First Amendment

2 The Court then turns to Plaintiff's First Amendment retaliation claims against  
3 Defendants. "Prisoners have a First Amendment right to file grievances against prison  
4 officials and to be free from retaliation for doing so." Watison v. Carter, 668 F.3d 1108,  
5 1114 (9th Cir. 2012) (citation omitted). An action against prison officials for First  
6 Amendment retaliation must satisfy five elements: "(1) an assertion that a state actor took  
7 some adverse action against an inmate (2) because of (3) that prisoner's protected conduct,  
8 and that such action (4) chilled the inmate's exercise of his First Amendment rights, and  
9 (5) the action did not reasonably advance a legitimate correctional goal." Rhodes v.  
10 Robinson, 408 F.3d 559, 567-68 (9th Cir. 2005). The plaintiff must establish a link  
11 between the exercise of his constitutional rights and the allegedly retaliatory action. Pratt  
12 v. Rowland, 65 F.3d 802, 806-07 (9th Cir. 1995).

13 Construing the record in the light most favorable to Plaintiff, genuine issues of  
14 material fact remain as to each of the disputed elements of his retaliation claims against  
15 Gomez, Soto, Cuevas, Hampton, and Orsatt. With respect to Soto and Gomez (the food  
16 port incident), the parties dispute whether the incident had anything to do with the Parker  
17 lawsuit. Likewise, with respect to Cuevas, Hampton, and Orsatt (the cell door incident),  
18 Plaintiff asserts these officers acted in retaliation for the Parker lawsuit and the complaints  
19 Plaintiff made against Soto and Gomez. (SDF at 41-44.) Cuevas, Hampton, and Orsatt  
20 maintain they acted for valid penological reasons, (Cuevas Decl. ¶¶ 2-3; Hampton Decl. ¶¶  
21 4-5; Orsatt Decl. ¶¶ 2-3), and reiterate their claims that they were unaware of the Parker  
22 lawsuit and the complaints against Gomez and Soto, (Doc. No. 42 at 19). These disputes  
23 are best reserved for a trier of fact.

24 Further, Hampton filed a statement indicating that Plaintiff threatened his life while  
25 Plaintiff was on the ground after the cell door incident. (Hampton Decl. ¶¶ 17-18.) A  
26 correctional officer should report a threat made by an inmate. But Plaintiff denies ever  
27 making this threat and alleges that Hampton admitted to him that he would file a false  
28 report against him. (Vaughn Decl. ¶¶ 20-21.) Plaintiff also submitted a declaration from

1 a fellow inmate who claims that he heard Hampton tell another officer that Hampton filed  
2 a threat allegation against Plaintiff to cover himself from liability. (Doc. No. 47-2, Ex. 5,  
3 Mejias Decl.) Based on these issues of material fact, the Court denies Defendants' motion  
4 for summary judgment with respect to Plaintiff's retaliation claims against Gomez, Soto,  
5 Cuevas, Hampton, and Orsatt.

6 As to Canlas, the control room officer, Plaintiff fails to raise a triable issue of  
7 material fact. Canlas closed Plaintiff's cell door because he interpreted Cuevas's hand  
8 motion as a signal to close the door, and the surveillance video depicts Cuevas making this  
9 hand motion. (Canlas Decl. ¶ 5; Doc. No. 47-2, Ex. C at 10:40 to 11:20.) Also, the  
10 surveillance video shows that the cell door only closed a few inches, and the door  
11 immediately began to open after Plaintiff is seen moving toward the ground. (Doc. No.  
12 47-2, Ex. C at 11:00 to 11:20.) Thus, the Court grants Defendants' motion for summary  
13 judgment with respect to Plaintiff's retaliation claim against Canlas.

#### 14 **IV. Plaintiff's Claims Under 42 U.S.C. §§ 1985-86**

15 Plaintiff argues that Defendants violated his rights under 42 U.S.C. §§ 1985-86  
16 because they denied him equal protection of the law. (Doc. No. 47 at 11.) In so doing,  
17 Plaintiff only invokes the second clause of § 1985(2). (Id. at 11-12.) Yet, "[i]t is well-  
18 settled that the equal protection language of the second clause of section 1985(2) [requires]  
19 an allegation of class-based animus." Portman v. Cty. of Santa Clara, 995 F.2d 898, 909  
20 (9th Cir. 1993) (second alteration in original) (citations and internal quotation marks  
21 omitted); see also Bagley v. CMC Real Estate Corp., 923 F.2d 758, 763 (9th Cir. 1991).  
22 Here, Plaintiff does not argue that he was deprived of any rights as the result of his  
23 membership in a protected class. Thus, the Court grants Defendants' motion for summary  
24 judgment as to Plaintiff's claims under §§ 1985-86.

#### 25 **V. Plaintiff's Negligence Claims**

26 The Court then turns to Plaintiff's negligence claims against Defendants. "In order  
27 to establish liability on a negligence theory, a plaintiff must prove duty, breach, causation,  
28 and damages." Conroy v. Regents of the Univ. of Cal., 45 Cal.4th 1244, 1250 (2009).

1 Because prisoners are vulnerable and dependent, California recognizes that prison guards  
2 owe prisoners a duty to reasonably protect them from foreseeable harms. Giraldo v.  
3 California Dep't of Corr. & Rehab., 168 Cal. App. 4th 231, 246-51 (2008); see also Lawson  
4 v. Superior Ct., 180 Cal. App. 4th 1372, 1389-90 (2010). California law also allows for  
5 the recovery of subjective, non-economic damages such as “pain, suffering, inconvenience,  
6 mental suffering, emotional distress, loss of society and companionship, loss of  
7 consortium, [and] injury to reputation and humiliation.” Cal. Civ. Code § 1431.2; see also  
8 Niles v. City of San Rafael, 42 Cal. App. 3d 230, 244 (1974).

9 Here, Plaintiff contends that each defendant in this action breached a duty to use  
10 reasonable care to protect Plaintiff. (Doc. No. 37 at 12.) Defendants conversely submit  
11 that they acted reasonably and professionally. (Canlas Decl. ¶ 10; Cuevas Decl. ¶¶ 13-14;  
12 Gomez Decl. ¶¶ 9-10; Hampton Decl. ¶¶ 23-24; Orsatt Decl. ¶¶ 15-16; Soto Decl. ¶¶ 9-  
13 10.) “[S]ummary judgment is generally an inappropriate way to decide questions of  
14 reasonableness because the jury’s unique competence in applying the reasonable man  
15 standard,” Eid v. Alaska Airlines, Inc., 621 F.3d 858, 868 (9th Cir. 2010), particularly  
16 where triable issues of fact exist as to Plaintiff’s excessive force and retaliation claims  
17 predicated on the officers’ same conduct. Thus, Plaintiff raises triable issues of fact as to  
18 whether Gomez, Soto, Cuevas, Hampton, and Orsatt violated a duty of care owed to  
19 Plaintiff. On the other hand, summary judgment is appropriate for Plaintiff’s negligence  
20 claim against Canlas. Canlas’s only role was in the control room, removed from the  
21 incident, and his only action was in response to the hand motion made by Cuevas, which  
22 is shown on the surveillance video. (Canlas Decl. ¶¶ 5-10; see also Doc. No. 47-2, Ex. C  
23 at 10:40 to 11:20.) Plaintiff fails to otherwise demonstrate that Canlas acted unreasonably.  
24 Therefore, the Court grants Defendants’ motion for summary judgment as to Plaintiff’s  
25 negligence claims against Canlas.

26 As to damages, Defendants have proffered considerable evidence questioning the  
27 extent, if any, of Plaintiff’s injuries. For example, Defendants submitted medical reports  
28 proving that Plaintiff’s hand was injured prior to the food port incident and that Plaintiff



1 had no discernable new injuries after the incident. (Doc. No 42-1, Exs. G, H, I, K.)  
2 Nevertheless, Plaintiff states in a declaration that the food port incident caused him extreme  
3 pain. (Vaughn Decl. ¶ 7.) As a result, Plaintiff raises genuine issues of material fact with  
4 respect to whether Gomez and Soto’s actions caused him any damages. Thus, the Court  
5 denies Defendants’ motion for summary judgment with respect to Plaintiff’s negligence  
6 claims made against Gomez and Soto.

7 Turning to the cell door incident, Defendants also offer medical reports indicating  
8 that Plaintiff had no significant neck injury from the cell door. (Doc. No. 42-1, Ex. L.)  
9 One clinician he saw that day even stated that Plaintiff’s injuries were “factitious.” (Id.)  
10 Additionally, Defendants point out that Plaintiff appeared to be able to freely move his  
11 neck and engage in regular activity shortly after the event. (Doc. No. 42 at 17-18.) Finally,  
12 Defendants explain that Plaintiff also claims to have injured his neck on at least two other  
13 occasions while in custody, each occurring after the cell door incident. (Id., Exs. M, P.)  
14 Plaintiff’s declaration states that the cell door caused him pain when it struck him. (Vaughn  
15 Decl. ¶ 18.) Faced with conflicting evidence, the Court denies Defendants’ motion for  
16 summary judgment with respect to Plaintiff’s negligence claims against Cuevas, Hampton,  
17 and Orsatt.

## 18 **VI. Plaintiff’s Battery Claims**

19 The Court next turns to Plaintiff’s battery claims against Defendants. In California,  
20 the elements of battery are met if: “(1) defendant intentionally performed an act that  
21 resulted in a harmful or offensive contact with the plaintiff’s person; (2) plaintiff did not  
22 consent to the contact; and (3) the harmful or offensive contact caused injury, damage, loss  
23 or harm to plaintiff.” Brown v. Ransweiler, 171 Cal. App. 4th 516, 526-27 (2009).

24 In his opposition, Plaintiff raises genuine disputes of material fact regarding his  
25 battery claims against Gomez, and Soto, and Cuevas. Plaintiff raises triable issues as to  
26 whether Gomez and Soto intentionally slammed his hand with the food port of his cell door  
27 and whether Cuevas intentionally motioned for the control room officer to close a cell door  
28 on Plaintiff. In opposition, Defendants claim that Soto and Gomez did not slam Plaintiff’s

1 hand in the food port, (Gomez Decl. ¶ 4; Soto Decl. ¶ 4), and that Cuevas did not intend  
2 for the cell door to close, (Cuevas Decl. ¶ 8; Orsatt Decl. ¶¶ 7-9). In ruling on a motion for  
3 summary judgment, the Court must draw all reasonable inferences in favor of the  
4 nonmoving party. Scott, 550 U.S. at 378. As a result, the Court denies Defendants’ motion  
5 for summary judgment with respect to Plaintiff’s battery claims against Cuevas, Gomez,  
6 and Soto. Plaintiff fails to raise a triable issue of fact as to any of the remaining Defendants  
7 on his battery claims. (See Doc. No. 47 at 13.) Thus, the Court grants Defendants’ motion  
8 for summary judgment for Plaintiff’s battery claims against Canlas, Hampton, and Orsatt.

### 9 **VII. Plaintiff’s Claims Under California Civil Code section 52.1**

10 Finally, the Court turns to Plaintiff’s claims against Cuevas, Hampton, and Orsatt  
11 under California Civil Code section 52.1. Section 52.1 provides a cause of action that  
12 protects against interferences with one’s legal rights “by threats, intimidation or coercion.”  
13 Cornell v. City & Cty. of San Francisco, 17 Cal. App. 5th 766, 791 (2017), as modified  
14 (Nov. 17, 2017); see also Reese v. Cty. of Sacramento, 888 F.3d 1030, 1040 (9th Cir. 2018).

15 Defendants argue that summary judgment is proper for these claims because none  
16 of them used threats in the first place. (Doc. No. 42 at 22.) Plaintiff claims that Cuevas,  
17 Hampton, and Orsatt threatened him while he was being transferred to his cell. (Vaughn  
18 Decl. ¶ 15.) Plaintiff also alleges that Hampton specifically threatened to file a false report  
19 against him after the cell door incident, (Vaughn Decl. ¶ 21), and submitted a declaration  
20 from an inmate who claims to have overheard Hampton discussing his plan to falsely  
21 accuse Plaintiff, (Doc. No. 47-2, Ex. 5, Mejias Decl.). Considering the conflicting  
22 evidence, the Court denies Defendants’ motion for summary judgment with respect to  
23 Plaintiff’s section 52.1 claims.


### 24 **Conclusion**

25 For the foregoing reasons, the Court grants in part and denies in part Defendants’  
26 motion for summary judgment. Specifically, the Court: (1) grants Gomez, Soto, and  
27 Cuevas’s motion for summary judgment with respect to Plaintiff’s 42 U.S.C. §§ 1985-86  
28 claims against them, but otherwise denies their motion; (2) grants Hampton and Orsatt’s

1 motion for summary judgment with respect to Plaintiff's §§ 1985-86 and battery claims  
2 against them, but otherwise denies their motion; and (3) grants Canlas's motion for  
3 summary judgment in its entirety.

4 **IT IS SO ORDERED.**

5 DATED: March 9, 2021

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7 MARILYN L. HUFF, District Judge  
8 UNITED STATES DISTRICT COURT  
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