UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WESLEY COTTON, Plaintiff, v. SGT. MEDINA, et al., Defendants.	Case No. 1:22-cv-00568-EPG (PC) FINDINGS AND RECOMMENDATIONS, RECOMMENDING THAT CERTAIN CLAIMS AND DEFENDANTS BE DISMISSED (ECF Nos. 1 & 9) OBJECTIONS, IF ANY, DUE WITHIN FOURTEEN DAYS ORDER DIRECTING CLERK TO ASSIGN DISTRICT JUDGE

Wesley Cotton ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983, which includes state law claim(s).

Plaintiff filed the complaint commencing this action on May 11, 2022. (ECF No. 1). The Court screened Plaintiff's complaint. (ECF No. 9). The Court found that only the following claims should proceed past the screening stage: Plaintiff's Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against defendant MeDina. (Id.).

The Court gave Plaintiff thirty days to either: "a. File a First Amended Complaint; b. Notify the Court in writing that he does not want to file an amended complaint and instead wants to proceed only on his Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against defendant Me[D]ina; or c. Notify the Court

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in writing that he wants to stand on his complaint." (Id. at 12). On August 11, 2022, Plaintiff filed what the Court construes as a notice that he wants to proceed only on his Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against defendant MeDina. (ECF No. 10).

Accordingly, for the reasons set forth in the Court's screening order that was entered on August 2, 2022 (ECF No. 9), and because Plaintiff has notified the Court that he wants to proceed only on his Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against defendant MeDina (ECF No. 10), it is HEREBY RECOMMENDED that all claims and defendants be dismissed, except for Plaintiff's Eighth Amendment excessive force claim against Doe Defendant(s) and his failure to protect claim against defendant MeDina.

These findings and recommendations will be submitted to the United States district judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

Additionally, IT IS ORDERED that the Clerk of Court is directed to assign a district judge to this case.

IT IS SO ORDERED.

Dated: **August 15, 2022**

/s/ Eric P. Grosjean
UNITED STATES MAGISTRATE JUDGE