

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Corey Lavelle Green v. M. Lizarraga, et al.

Green v. Lizarraga · No. 22-cv-01175-DMS-MMP · Decided October 21, 2025

OPINION

Green

PER CURIAM.

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UNITED STATES DISTRICT COURT

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SOUTHERN DISTRICT OF CALIFORNIA

8 9 Case No.: 22-cv-01175-DMS-MMP

COREY LAVELLE GREEN,

10 Plaintiff, ORDER (1) ADOPTING 11

v. MAGISTRATE JUDGE’S REPORT

12 AND RECOMMENDATION, (2)

M. LIZARRAGA, et al.,

GRANTING IN PART AND

13 Defendants. DENYING IN PART DEFENDANTS’

14 MOTION FOR SUMMARY

JUDGMENT

15 16 17 18 Before the Court is United States Magistrate Judge Michelle M. Pettit’s Report and 19
Recommendation (“R&R”) recommending that the Court grant in part and deny in part 20
Defendants’ Motion for Summary Judgment. (ECF No. 88). Defendants have filed 21 objections
to the R&R. (ECF No. 92). The Court having reviewed the thorough and well- 22 reasoned R&R,
adopts it in its entirety. 23 Defendants contend that the R&R failed to appropriately apply Heck v.
Humphrey 24 to the facts at hand. 512 U.S. 477 (1994). However, the Court is persuaded by the
analysis 25 in the R&R leading to the conclusion that “the criminal jury did not necessarily make
a 26 finding that any of the defendants currently before this Court acted lawfully.” (ECF No. 27
88); see King v. R. Villegas, No. 23-1713, 2025 WL 2950508, at *7 (9th Cir. Oct. 20, 2025) 28
(noting that a prisoner plaintiff’s excessive force action filed prior to criminal charges was 1 ||not
the type of collateral attack contemplated by the Supreme Court in deciding Heck). 2 ||Defendants
also object to the survival of claims against Sergeant Montejano, who they 3 ||argue did not order
the excessive force at issue. Plaintiff alleges that Sgt. Montejano 4 “ordered [the other officers] to
run inside the cell to do that, because he said he did that” 5 that “under [Sgt. Montejano’s] orders

it was ill intentions that cause [sic] my injuries 6 || by his command to cause me harm.” (ECF Nos. 71-2 at 37, 1 at 2-3) (emphasis added). 7 || Although the Defendants point out what they think “Plaintiff is most likely referring to,” 8 ||any ambiguity tends to show a genuine dispute as to a material fact, particularly given the 9 || duty to liberally construe documents filed pro se. (ECF No. 92); Erickson v. Pardus, 551 U.S. 89, 94 (2007). 11 For these reasons, the Court adopts the R&R in its entirety. Defendants’ Motion for 12 || Summary Judgment as to Plaintiffs illegal extraction claim is GRANTED. Defendants’ 13 || Motion for Summary Judgment as to Plaintiff's excessive force claims against Defendants 14 || Lizarraga, Galindo, and Montejano is DENIED. 15 IT IS SO ORDERED. 16 || Dated: October 21, 2025 2» 17 jn Yn « 18 Hon. Dana M. Sabraw 19 United States District Judge 20 21 22 23 24 25 26 27 28