

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Karlis Ruben Augustus Howard v. CDCR, et al.

No. 1:24-cv-01335-KES-SAB (PC) · No. No. 1:24-cv-01335-KES-SAB (PC) · Decided June 2, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 KARLIS RUBEN AUGUSTUS HOWARD, No. 1:24-cv-01335-KES-SAB
(PC) 12 Plaintiff, ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO DISMISS
13 v. CERTAIN CLAIMS AND DEFENDANTS 14 CDCR, et al., Doc. 11 15 Defendants. 16 17
Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 18 U.S.C. §
1983.

The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. 19 § 636(b)(1)
(B) and Local Rule 302. 20 Plaintiff initiated this action on October 31, 2024. Doc. 1. On March
7, 2025, the Court 21 screened plaintiff's complaint, and found that plaintiff stated the following
cognizable claims: (1) 22 excessive force against defendants Lee, Rios, Perez, and Reyes; (2)
failure to intervene claim 23 against defendants Rios, Perez, and Reyes; (3) state law claims of
assault, battery, negligence, 24 intentional infliction of emotional distress, and violation of the
Bane Act against defendants Lee, 25 Rios, Perez, and Reyes; (4) retaliation against defendant Lee
for removing him from the 26 Veteran's group because he filed an inmate grievance; (5) retaliation
against defendants Lee and 27 Perez for issuing a false rules violation report for filing an inmate
grievance; and (6) retaliation 28 1 against defendants Perez, Lee, and Harter for removal from the
Bravo yard for filing an inmate 2 grievance.

Doc. 8. Plaintiff was ordered to file a first amended complaint or notify the court of 3 his
willingness to proceed only on the cognizable claims identified in the screening order. Id. at 4 22.
In response to the court's order, plaintiff timely filed a notice indicating he wanted to proceed 5
only on claims found to be cognizable. Doc. 9. 6 On April 10, 2025, the assigned magistrate
issued findings and recommendations, 7 recommending that the case proceed only on the claims
found to be cognizable.

Doc. 11. The 8 findings and recommendations were served on plaintiff and notified him that any
objections were 9 to be filed within fourteen (14) days after service. Id. at 2. Plaintiff was advised
that the failure 10 to file objections within the specified time may result in the waiver of rights on
appeal. Id., citing 11 *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir.

2014). Plaintiff did not file any objections, 12 and the deadline to do so has passed. 13 In
accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of 14 this case.

Having carefully reviewed the matter, the Court finds the findings and 15 recommendations to be supported by the record and proper analysis. 16 Accordingly: 17 1.

The findings and recommendations issued on April 10, 2025 (Doc. 11), are 18 ADOPTED IN FULL; 19 2. This case shall PROCEED on the following claims: (1) excessive force against 20 defendants Lee, Rios, Perez, and Reyes; (2) failure to intervene claim against 21 defendants Rios, Perez, and Reyes; (3) state law claims of assault, battery, negligence, 22 intentional infliction of emotional distress, and violation of the Bane Act against 23 defendants Lee, Rios, Perez, and Reyes; (4) retaliation against defendant Lee for 24 removing him from the Veteran's group because he filed an inmate grievance; 25 (5) retaliation against defendants Lee and Perez for issuing a false rules violation 26 report for filing an inmate grievance; and (6) retaliation against defendants Perez, Lee, 27 and Harter for removal from the Bravo yard for filing an inmate grievance; 28 1 3.

All other claims and defendants are dismissed for failure to state a claim upon which 2 relief may be granted; and 3 4. This action is referred back to the assigned magistrate judge for further proceedings 4 consistent with this order. 5 6 7 | ITISSO ORDERED. _ 8 Dated: _ June 1, 2025 4h 9 UNITED STATES DISTRICT JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28