

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LaKEITH L. McCOY,

No. 17-16268

Plaintiff-Appellant,

D.C. No. 1:13-cv-01808-MJS

v.

MEMORANDUM*

J. RAMIREZ, Correctional Officer at CCI;
et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Michael J. Seng, Magistrate Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

California state prisoner LaKeith L. McCoy appeals pro se from the magistrate judge's orders dismissing his 42 U.S.C. § 1983 action alleging excessive force and due process claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo whether the magistrate judge validly entered judgment

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

on behalf of the district court. *Allen v. Meyer*, 755 F.3d 866, 867-68 (9th Cir. 2014). We vacate and remand.

McCoy and defendant Ramirez consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c). The magistrate judge, however, screened and dismissed claims against other named defendants in the action before those defendants had been served. *See* 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A. Because all parties, including unserved defendants, must consent to proceed before the magistrate judge for jurisdiction to vest, *Williams v. King*, 875 F.3d 500, 503-04 (9th Cir. 2017), we vacate the magistrate judge's orders and remand for further proceedings.

VACATED and REMANDED.