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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

RICHARD BENITEZ,
Petitioner,
v.
WARDEN MCGREW,
Respondent.

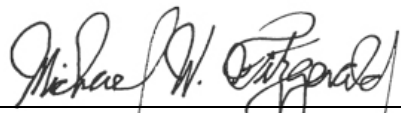
No. CV 13-1202-MWF (PLA)
**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the entire file de novo, including the magistrate judge's report and recommendation. The Court agrees with the recommendations of the magistrate judge.

ACCORDINGLY, IT IS ORDERED:

1. The report and recommendation is adopted.
2. Respondent's Motion to Dismiss is granted, without leave to amend.
3. Judgment shall be entered consistent with this order.
4. The clerk shall serve this order and the judgment on all counsel or parties of record.

DATED: August 29, 2013


 HONORABLE MICHAEL W. FITZGERALD
 UNITED STATES DISTRICT JUDGE