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

ANTOINE P. LeBLANC,

Plaintiff,

v.

D. TABAK, *et al.*,

Defendants.

Case No. CV 16-03270-JLS (AFM)

**ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file and the Report and Recommendation of United States Magistrate Judge. Further, the Court has engaged in a *de novo* review of those portions of the Report to which objections have been made.

Petitioner's objections are overruled for the reasons stated in the Report and Recommendation. With regard to plaintiff's contention that the Report and Recommendation incorrectly states that he was outside of his cell when he pulled the handcuffs from Officer Tabak's hands (*see* R&R at 15, 19), the record shows that plaintiff was inside the cell when this took place – as correctly stated in the Undisputed Facts section of the Report and Recommendation (R&R at 6). However, this distinction between outside and inside the cell is not material to the Report and Recommendation's conclusions (i) that Officer Tabak's use of force

1 was *de minimis* and was not a violation of the Eighth Amendment; and (ii) that
2 Officer Tabak filed the RVR because plaintiff refused to obey orders to return to his
3 cell and not because of retaliatory intent.

4 With this clarification, IT THEREFORE IS ORDERED that (1) the Report
5 and Recommendation of the Magistrate Judge is accepted and adopted; (2)
6 defendant's Motion for Summary Judgment is granted; and (3) judgment shall be
7 entered in favor of defendant.

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9 DATED: October 2, 2018

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13 JOSEPHINE L. STATON
14 UNITED STATES DISTRICT JUDGE
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