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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANDRE PATTERSON,
Plaintiff,

No. C 11-06139 WHA

v.

DEEANNA CRESPO,
Defendant.

**ORDER ADOPTING REPORT
AND RECOMMENDATION OF
MAGISTRATE JUDGE**

On December 5, 2011, pro se plaintiff Andre Patterson filed this civil rights action against his landlord. Patterson also filed a motion to proceed in forma pauperis (Dkt. No. 3). This action was initially assigned to Magistrate Judge Nathanael Cousins. Patterson, however, declined to proceed before the Magistrate Judge and the action was transferred before the undersigned judge. Prior to reassignment, Judge Cousins issued a report recommending that the motion to proceed in forma pauperis be granted, and Patterson's complaint be dismissed without prejudice for failure to state a claim upon which relief may be granted. No objections were filed. This order **ADOPTS** in full the report and recommendation of Judge Cousins.

For the reasons stated in Judge Cousins' report, Patterson has shown in his IFP application that he is unable to pay the filing fee required. Patterson's complaint, however, fails to state a claim upon which relief may be granted. In his handwritten complaint, Patterson claims that Defendant Deeanna Crespo violated his rights under the First and Fifth Amendments of the United States Constitution. He alleges that after he was threatened by an "unruly" and "violent"

1 co-tenant, he attempted to report the incident to Defendant Crespo, who is his landlord and “an
2 advocate for Catholic charities.” Crespo allegedly told Patterson to leave her office and “banned”
3 him “from services.” Patterson claims that Franklin’s actions violated his “right to a fair hearing”
4 under the Fifth Amendment. The rest of the complaint contains excerpts of the First and Fifth
5 Amendments.

6 Patterson’s complaint fails to state a claim for relief under the First or Fifth Amendments
7 because he fails to allege that Crespo was a person acting on behalf of the federal government.
8 Patterson’s complaint also fails to state a claim for relief under 42 U.S.C. 1983 because Patterson
9 does not allege that Crespo acted under the color of law when she purportedly violated his rights.

10 For the reasons stated, Patterson’s IFP application is **GRANTED** and his complaint is
11 **DISMISSED WITHOUT PREJUDICE.**

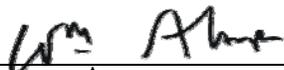
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13 **IT IS SO ORDERED.**

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15 Dated: January 3, 2012.

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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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