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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELIJAH DOMINGUEZ,
Plaintiff,
v.
CHRISTOPHER VARNELL,
Defendant.

Case No. 17-cv-02652-HSG

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION REGARDING
DISMISSAL WITH LEAVE TO AMEND**

Re: Dkt. No. 13

United States District Court
Northern District of California

The Court has reviewed Magistrate Judge Westmore's Report and Recommendation Re Dismissal with leave to amend. The time for objections has passed and none were filed. The Court finds the Report correct, well-reasoned and thorough, and adopts it in every respect.

Despite the deficiencies addressed in the Report and Recommendation, the Court cannot say at this stage that amending the complaint would be futile. *See Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) ("[A] pro se litigant is entitled to notice of the complaint's deficiencies and an opportunity to amend prior to dismissal of the action."). Plaintiff may still be able to allege sufficient facts to state a claim. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000).

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If Plaintiff elects to file an amended complaint, he must do so by no later than December 22, 2017. Failure to file an amended complaint by this deadline may result in the dismissal of the action without leave to amend. The Court also strongly encourages Plaintiff to seek free assistance from the Northern District's Pro Se Help Desk. Appointments can be made in person or by calling 415-782-8982.

Accordingly, IT IS HEREBY ORDERED that this case is dismissed with leave to amend.

IT IS SO ORDERED.

Dated: 11/21/2017


HAYWOOD S. GILLIAM, JR.
United States District Judge