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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANTHONY D. DAWKINS,

Plaintiff,

C. BUTLER, Correctional Captain, et al.,

Defendants.

CASE NO. 09CV1053 JLS (DHB)

ORDER (1) ADOPTING REPORT AND RECOMMENDATION; AND (2) GRANTING MOTION BY DEFENDANT G. SIOTA TO DISMISS PLAINTIFF'S FOURTH AMENDED COMPLAINT

(ECF Nos. 151, 174)

Presently before the Court is Defendant G. Siota's Motion to Dismiss Plaintiff's Fourth Amended Complaint Filed April 29, 2011 [Fed. R. Civ. P. 12(b)]. (ECF No. 151). Also before the Court is Magistrate Judge Bartick's Report and Recommendation ("R&R") advising that the Court **GRANT** the motion. (ECF No. 174).

Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district court's duties in connection with a magistrate judge's R&R. The district court must "make a de novo determination of those portions of the report to which objection is made," and "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); see also United States v. Raddatz, 447 U.S. 667, 673–76 (1980); United States v. Remsing, 874 F.2d 614, 617 (9th Cir. 1989). In the absence of timely objection, however, the Court "need only satisfy itself that there is no clear error on the face of the record in order to

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accept the recommendation." Fed. R. Civ. P. 72 advisory committee's note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974)).

Here, Plaintiff has failed to file timely objections to Magistrate Judge Bartick's R&R. Having reviewed the R&R, the Court finds that it is thorough, well reasoned, and contains no clear error. Accordingly, the Court **ADOPTS** Magistrate Judge Bartick's R&R in its entirety and **GRANTS** the motion to dismiss. Plaintiff's claims against Defendant G. Siota are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

DATED: June 7, 2013

onorable Janis L. Sammartino

United States District Judge

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