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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ROBERT DOUGLAS,	
	Plaintiff,
vs.	
MICHAEL SMELOSKY, Warden; et al.,	
	Defendants.

CASE NO. 10 CV 1464 MMA (BGS)

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

[Doc. No. 14]

**GRANTING DEFENDANTS’
MOTION TO DISMISS**

[Doc. No. 9]

Plaintiff Robert Douglas, a state prisoner proceeding *pro se* and *in forma pauperis*, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to United States Magistrate Judge Bernard G. Skomal pursuant to 28 U.S.C. § 636(b)(1)(B) and Civil Local Rule 72.3. On November 30, 2010, Defendants Smelosky and Valenzuela filed a motion to dismiss Plaintiff’s complaint. [Doc. No. 9.] Plaintiff filed an opposition to Defendants’ motion on January 27, 2011. [Doc. No. 12.] On June 17, 2011, Judge Skomal filed a well-reasoned and thorough Report containing findings and conclusions, upon which he bases his recommendation that the Court grant Defendants’ motion to dismiss. [Doc. No. 14.] On July 5, 2011, Plaintiff moved to extend the time to file objections to the Report. [Doc. No. 16.] Judge Skomal granted Plaintiff’s request, and extended the deadline to file objections until August 15, 2011. [Doc. No. 17.] No objections were filed.

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(iii) If Plaintiff desires to amend his claim against Defendant Smelosky to remedy the deficiencies identified in the Report, he must file an amended complaint within **thirty (30) days**. If Plaintiff does not file an amended complaint within the time permitted, the only claim that will proceed in this action is his claim against Defendant Valenzuela in his *individual* capacity.¹

IT IS SO ORDERED.

DATED: August 23, 2011



Hon. Michael M. Anello
United States District Judge

¹ Defendant Walker has not been served.