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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SAMUEL K. PORTER,

Plaintiff,

v.

MUABE HOWARD, *et al.*,

Defendants.

Case No. 10-cv-1817-BAS(PCL)

ORDER:

**(1) APPROVING AND ADOPTING
REPORT AND
RECOMMENDATION IN ITS
ENTIRETY; AND**

**(2) GRANTING DEFENDANTS'
MOTION TO DISMISS**

[ECF Nos. 150, 192]

On August 30, 2010, Plaintiff Samuel K. Porter, a state prisoner proceeding *pro se* and *in forma pauperis*, asserting civil-rights violations under 42 U.S.C. § 1983.

On June 25, 2014, United States Magistrate Judge Peter C. Lewis issued a Report and Recommendation (“R&R”), recommending that this Court: (1) approve and adopt the R&R; and (2) direct that judgment be entered granting Defendants’ motion to dismiss.

The time for filing objections to the R&R expired on July 30, 2014. (R&R 6:15–17.)

To date, neither party has filed any objections.

1 **I. ANALYSIS**

2 The Court reviews *de novo* those portions of the R&R to which objections are
3 made. 28 U.S.C. § 636(b)(1). The Court may “accept, reject, or modify, in whole or
4 in part, the findings or recommendations made by the magistrate judge.” *Id.* But “[t]he
5 statute makes it clear that the district judge must review the magistrate judge’s findings
6 and recommendations *de novo* if objection is made, but not otherwise.” *United States*
7 *v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (emphasis in original);
8 *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (concluding
9 that where no objections were filed, the district court had no obligation to review the
10 magistrate judge’s report). “Neither the Constitution nor the statute requires a district
11 judge to review, *de novo*, findings and recommendations that the parties themselves
12 accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121. This rule of law is well-established
13 within the Ninth Circuit and this district. *See Wang v. Masaitis*, 416 F.3d 992, 1000
14 n.13 (9th Cir. 2005) (“Of course, *de novo* review of a R & R is only required when an
15 objection is made to the R & R.”); *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D.
16 Cal. 2005) (Lorenz, J.) (adopting report in its entirety without review because neither
17 party filed objections to the report despite the opportunity to do so); *see also Nichols*
18 *v. Logan*, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

19 In this case, the deadline for filing objections was on July 30, 2014. However,
20 no objections have been filed, and neither party has requested additional time to do so.
21 Consequently, the Court may adopt the R&R on that basis alone. *See Reyna-Tapia*,
22 328 F.3d at 1121. Nonetheless, having conducted a *de novo* review of Defendants’
23 motion to dismiss and the R&R, the Court concludes that Judge Lewis’ reasoning is
24 sound and accurate in concluding that the motion to dismiss should be granted because
25 the threshold issue that needs to be addressed violates the “law of the case doctrine.”
26 (R&R 3:21–6:6.) Therefore, the Court hereby approves and **ADOPTS IN ITS**
27 **ENTIRETY** the R&R. *See* 28 U.S.C. § 636(b)(1).


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1 **II. CONCLUSION & ORDER**

2 Having reviewed the R&R and there being no objections, the Court **APPROVES**
3 **AND ADOPTS IN ITS ENTIRETY** the R&R (ECF No. 192), and **GRANTS**
4 Defendants' motion to dismiss (ECF No. 150). The Clerk of the Court is directed to
5 enter judgment accordingly.

6 **IT IS SO ORDERED.**

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8 **DATED: August 29, 2014**

9 
10 **Hon. Cynthia Bashant**
11 **United States District Judge**

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