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

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| RICHARD EDWARD JACKSON, III, <p style="text-align: right;">Plaintiff,</p> | CASE NO. 10cv2200-WQH-NLS ORDER |
| vs. | |
| WILLIAM GORE, San Diego County Sheriff; CAPTAIN PENA, San Diego Central Jail Facility Commander; DR. NORANYO, Director of Psychiatry, SDCJ; COUNTY OF SAN DIEGO, Central Detention Facility, George Bailey Detention Facility, and San Diego Psychiatric Hospital, <p style="text-align: right;">Defendants.</p> | |

HAYES, Judge:

The matters before the Court are (1) the Report and Recommendation (ECF No. 79) recommending that the Motions to Dismiss the Third Amended Complaint filed by Defendants County of San Diego, William Gore, Captain Pena and Dr. Noranyo (ECF Nos. 65, 73) be granted, Plaintiff’s Request for Entry of Default Judgment (ECF No. 72) be denied, and the Third Amended Complaint (ECF No. 64) be dismissed with prejudice; and (2) the Report and Recommendation (ECF No. 78) recommending that Plaintiff’s Request for Permission to File Electronically (ECF No. 70) be denied.

BACKGROUND

On October 26, 2010, Plaintiff, a former pre-trial detainee proceeding pro se and in

1 forma pauperis, initiated this action by filing a civil rights complaint pursuant to 42 U.S.C. §
2 1983. (ECF No. 1). On January 31, 2011, Plaintiff filed a first amended complaint. (ECF No.
3 10). On May 18, 2011, Plaintiff filed a second amended complaint. (ECF No. 12). On March
4 13, 2012, the Court entered an Order adopting the report and recommendation of the
5 Magistrate Judge, granting the motions to dismiss the second amended complaint filed by all
6 Defendants, and dismissing with prejudice the Plaintiff's claims regarding medical treatment
7 for his mental health issues at San Diego Central Detention Facility and dismissing without
8 prejudice Plaintiff's claims regarding his placement in a "safety cell" at San Diego Central
9 Detention Facility. (ECF No. 62).

10 On April 25, 2012, Plaintiff filed the "Amended Complaint of Placement in Safety
11 Cell," which the Court construes as the Third Amended Complaint. (ECF No. 64). The Third
12 Amended Complaint alleges that Plaintiff's civil rights were violated when he was placed in
13 a "safety cell" at the San Diego Central Detention Facility on May 14, 2010 and June 2, 2010.
14 *Id.* at 1.

15 On May 4, 2012, Defendants County of San Diego, William Gore, and Captain Pena
16 filed a Motion to Dismiss the Third Amended Complaint pursuant to Federal Rule of Civil
17 Procedure 12(b)(6). (ECF No. 65). On July 6, 2012, Plaintiff filed a Request for the Court to
18 "allow [Plaintiff] to electronic[ally] file all court documents in this civil case." (ECF No. 70
19 at 1). On July 16, 2012, Plaintiff filed a Request for Entry of Default Judgment as to
20 Defendant Dr. Noranyo. (ECF No. 72). On October 3, 2012, Defendant Dr. Noranyo filed a
21 Motion to Dismiss the Third Amended Complaint pursuant to Federal Rule of Civil Procedure
22 12(b)(6). (ECF No. 73).

23 On January 24, 2013, the Magistrate Judge issued the Report and Recommendation
24 recommending that the Motions to Dismiss be granted, the Request for Entry of Default
25 Judgment be denied, and the Third Amended Complaint be dismissed with prejudice. (ECF
26 No. 79). On January 24, 2013, the Magistrate Judge issued the Report and Recommendation
27 recommending that Plaintiff's Request for Permission to File Electronically be denied. (ECF
28 No. 78). Each Report and Recommendation states that, no later than 30 days from issuance

1 of the Report and Recommendation, any party may file written objections to the Report and
2 Recommendation. *Id.* at 2; ECF No. 79 at 14.

3 The docket reflects that no objection to either Report and Recommendation has been
4 filed.¹

5 REVIEW OF THE REPORT AND RECOMMENDATION

6 The duties of the district court in connection with a report and recommendation of a
7 magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b).
8 The district judge must “make a de novo determination of those portions of the report ... to
9 which objection is made,” and “may accept, reject, or modify, in whole or in part, the findings
10 or recommendations made by the magistrate.” 28 U.S.C. § 636(b). The district court need not
11 review de novo those portions of a report and recommendation to which neither party objects.
12 *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005); *United States v. Reyna-Tapia*,
13 328 F.3d 1114, 1121-22 (9th Cir. 2003) (en banc).

14 After review of the Report and Recommendation recommending the dismissal of the
15 Third Amended Complaint, the Court concludes that the Magistrate Judge set forth the correct
16 legal standards for evaluating motions to dismiss and civil rights claims related to the use of
17 “safety cells.” *See, e.g., Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007); *Bell*
18 *v. Wolfish*, 441 U.S. 520, 539 (1979); *Anderson v. County of Kern*, 45 F.3d 1310, 1314 (9th
19 Cir. 1995); *see also Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 690
20 (1978) (municipal liability); *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir. 2011) (supervisor
21 liability). The Magistrate Judge correctly applied these standards to the allegations of the
22 Third Amended Complaint and correctly found that all remaining claims against all remaining
23 Defendants should be dismissed with prejudice. The Magistrate Judge correctly found that
24 Plaintiff’s Request for Entry of Default Judgment and Request for Permission to File
25 Electronically should be denied.


26
27 ¹ On February 15, 2013, Plaintiff attempted to file a “Request for discovery conference
28 for answer to Civil Rule 33.1 Interrogatories and Civil Rule 36.1 Request for Admission.”
(ECF No. 80 at 2). This single-page document contains a list of interrogatories and requests
for admission, and does not reference any pending Report and Recommendation or motion.

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CONCLUSION

IT IS HEREBY ORDERED that each pending Report and Recommendation is ADOPTED in its entirety. (ECF Nos. 78, 79). The Motions to Dismiss the Third Amended Complaint filed by Defendants County of San Diego, William Gore, Captain Pena and Dr. Noranyo are GRANTED. (ECF Nos. 65, 73). Plaintiff's Request for Entry of Default Judgment and Request for Permission to File Electronically are DENIED. (ECF Nos. 70, 72). The Third Amended Complaint is DISMISSED WITH PREJUDICE. The Clerk of the Court shall close this case.

DATED: March 11, 2013


WILLIAM Q. HAYES
United States District Judge