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

10  
11 **SUKUMARAN MUTHU**

12 **Plaintiff,**

13 **v.**

14 **U.S. DHS/ICE-EL CENTRO, *ET***  
15 ***AL.***

16 **Defendants.**

Case No. 14-cv-00967-BAS(JMA)

**ORDER:**

- 13 (1) **APPROVING AND**  
14 **ADOPTING REPORT AND**  
15 **RECOMMENDATION IN ITS**  
16 **ENTIRETY; AND**  
17 (2) **GRANTING DEFENDANT**  
18 **AUHL'S MOTION TO**  
19 **DISMISS WITH PREJUDICE**

(ECF Nos. 11, 27)

19 On April 17, 2014, plaintiff Sukumaran Muthu ("Plaintiff"), formerly an  
20 immigration detainee at the U.S. Department of Homeland Security's ("DHS")  
21 Immigration and Custom Enforcement's ("ICE") Processing Center in El Centro,  
22 California, who is proceeding *pro se* and *in forma pauperis*, filed this civil rights  
23 action which the Court previously construed as arising under *Bivens v. Six Unknown*  
24 *Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). On March  
25 5, 2015, United States Magistrate Judge Jan M. Adler issued a Report and  
26 Recommendation ("R&R"), recommending that this Court grant the motion to  
27 dismiss filed by Defendant Herman Auhl ("Auhl") (ECF No. 11) with prejudice.  
28 The time for filing objections to the R&R expired on March 27, 2015. (R&R at p.

1 8:3-6.) To date, Plaintiff has not filed any objections.

2 **I. ANALYSIS**

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

21 In this case, the deadline for filing objections was March 27, 2015. However,  
22 over a month has passed since the deadline lapsed and no objections have been  
23 filed. Moreover, Plaintiff has not requested additional time to file objections.  
24 Consequently, the Court may adopt the R&R on that basis alone. *See Reyna-Tapia*,  
25 328 F.3d at 1121. Nonetheless, having conducted a *de novo* review of the briefing  
26 related to Auhl’s motion to dismiss for lack of subject matter jurisdiction and the  
27 R&R, the Court concludes that Judge Adler’s reasoning is sound and accurate in  
28 concluding that Auhl’s motion to dismiss should be granted with prejudice. (*See*


1 R&R at p. 7.) Therefore, the Court hereby **APPROVES AND ADOPTS IN ITS**  
2 **ENTIRETY** the R&R. *See* 28 U.S.C. § 636(b)(1).

3 **II. CONCLUSION & ORDER**

4 Having reviewed the R&R and there being no objections, the Court  
5 **APPROVES AND ADOPTS IN ITS ENTIRETY** the R&R (ECF No. 27), and  
6 **GRANTS** Auhl's motion to dismiss **WITH PREJUDICE** (ECF No. 11).

7 **IT IS SO ORDERED.**

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9 **DATED: May 15, 2015**

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