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

CHARLES VAN NORT,

Plaintiff,

vs.

EDMUND G. BROWN, JR. Et al.,

Defendants.

CASE NO. 14cv1663-LAB (KSC)

**ORDER ADOPTING REPORT AND
RECOMMENDATION RE
DEFENDANTS' MOTION TO DISMISS**

Magistrate Judge Crawford issued a report and recommendation (the "R&R"), recommending Defendants' motion to dismiss be **GRANTED** in part and **DENIED** in part. (Docket no. 25.) Objections to the R&R were due on August 24, 2014, but none have been received or filed.

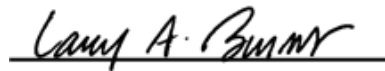
A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). "A judge of the court 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). This section does not require some lesser review by the district court when no objections are filed. *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). The statute makes it clear that the district judge must review the magistrate judge's findings and

1 recommendations de novo if objection is made, but not otherwise. *United States. v.*
2 *Reyna–Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

3 The Court has nonetheless reviewed the R&R and agrees with its rationale and
4 conclusions. The R&R is **ADOPTED** and Defendants' motion to dismiss is **GRANTED** in part
5 and **DENIED** in part. Van Nort's *official capacity* claims against Defendants Lozano, Paramo,
6 Suglich, and Zuniga for violation of the Eighth Amendment are **DISMISSED WITH**
7 **PREJUDICE**. His *individual or personal capacity* claims against Defendants Lozano,
8 Paramo, Suglich, and Zuniga for violation of the ADA and the Rehabilitation Act are
9 **DISMISSED WITH PREJUDICE**. His remaining Eighth Amendment, ADA, and Rehabilitation
10 Act claims against Defendants Lozano, Paramo, Suglich, and Zuniga are **DISMISSED**
11 **WITHOUT PREJUDICE** and **WITH LEAVE TO AMEND**. The motion to dismiss Defendants
12 Lozano, Paramo, Suglich, and Zuniga on qualified immunity grounds is **DENIED WITHOUT**
13 **PREJUDICE**.

14 **IT IS SO ORDERED.**

15 DATED: September 1, 2015

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17 **HONORABLE LARRY ALAN BURNS**
18 United States District Judge

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