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

TERRELL DESHON LEMONS,

Plaintiff,

v.

CALIF. DEPT. OF CORRECTION &
REHABILITATION, ALEJANDRO
CAMARILLO,

Defendants.

CASE NO. 14cv2814 DMS (DHB)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION AND
(2) GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS**

On November 25, 2014, Plaintiff Terrell Deshon Lemons (“Plaintiff”), a state prisoner proceeding *pro se*, filed a Complaint Under the Civil Rights Act 42 U.S.C. § 1983. Plaintiff alleges his constitutional rights were violated while he was housed at Centinela State Prison.

On September 30, 2015, Magistrate Judge David Bartick issued a Report and Recommendation (“R&R”), recommending that the Court grant in part and deny in part Defendants’ motion to dismiss. Specifically, the Magistrate Judge recommended the Court grant the motion as to Plaintiff’s official capacity claims against Defendants Camarillo and Villalobos and deny the motion based on failure to exhaust. Plaintiff filed objections to the R&R on October 19, 2015.

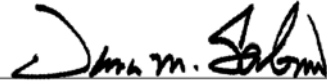
This Court, having reviewed *de novo* the Magistrate Judge’s R&R and Plaintiffs’ objections thereto adopts the R&R in its entirety. Defendants’ motion to dismiss is

1 granted as to Plaintiff's official capacity claims against Defendants Camarillo and
2 Villalobos and denied as to exhaustion.

3 Pursuant to Federal Rule of Civil Procedure 12(a)(1)(C), Defendants shall file
4 their Answer to the Complaint within 21 days of the filing of this Order.

5 **IT IS SO ORDERED.**

6 DATED: January 12, 2016



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8 HON. DANA M. SABRAW
9 United States District Judge

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