

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

FILED  
2015 OCT 30 PM 2:13  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
TH

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

JAVON LAMAR TORBERT,  
  
Plaintiff,  
  
v.  
  
WILLIAM D. GORE, et al.,  
  
Defendants.

Case No.: 14-cv-2911-BEN (NLS)

**ORDER:**

- (1) ADOPTING REPORT AND RECOMMENDATION**
- (2) DENYING MOTION FOR LEAVE TO AMEND COMPLAINT**

On December 9, 2014, Plaintiff Javon Lamar Torbert, a state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket No. 1.) On October 20, 2015, Plaintiff filed a motion for leave to file a first amended complaint in order to substitute five individuals in the place of doe defendants. (Docket No. 46.) On November 10, 2015, the Magistrate Judge issued a thoughtful and thorough Report and Recommendation recommending that Plaintiff’s motion be denied. (Docket No. 51.) Objections to the Report were due by December 4, 2015. (*Id.*) No objections have been filed. For the reasons stated below, the Report is **ADOPTED**.

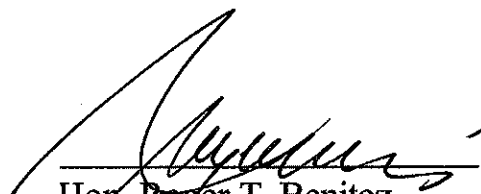
A district judge “may accept, reject, or modify the recommended disposition” of a magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1). “[T]he district judge must determine de novo any part of the [report and

1 recommendation] that has been properly objected to.” Fed. R. Civ. P. 72(b)(3).  
2 However, “[t]he statute makes it clear that the district judge must review the magistrate  
3 judge’s findings and recommendations de novo *if objection is made*, but not otherwise.”  
4 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*  
5 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). “Neither the Constitution nor  
6 the statute requires a district judge to review, de novo, findings and recommendations  
7 that the parties themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.

8 Albeit not required, this Court reviewed the matter de novo. The Court fully  
9 **ADOPTS** the Report and Recommendation. Plaintiff’s motion is **DENIED**.

10 **IT IS SO ORDERED.**

11  
12 Dated: December 30, 2015

13   
14 Hon. Roger T. Benitez  
15 United States District Judge  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28