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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ANTHONY McGINNIS, P-19835,
12 Plaintiff,
13 v.
14 A.T. RAMOS,
15 Defendant.

Case No.: 15-CV-2812 JLS (JLB)

**ORDER: (1) ADOPTING REPORT
AND RECOMMENDATION, AND (2)
GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

(ECF Nos. 41, 46)

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19 Presently before the Court are Defendant A.T. Ramos's Motion for Summary
20 Judgment, (ECF No. 41), and Magistrate Judge Jill L. Burkhardt's Report and
21 Recommendation concerning Defendant's Motion, ("R&R," ECF No. 46). Judge
22 Burkhardt ordered the parties file any objections no later than July 23, 2018. On July 26,
23 2018, Plaintiff Anthony McGinnis filed a motion for extension of time, (ECF No. 48),
24 which the Court granted, (ECF No. 49).¹ Plaintiff failed to oppose Defendant's Motion
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26 ¹ The Court determined that Plaintiff's motion for extension of time was timely because of the mailing
27 date. *See Douglas v. Noelle*, 567 F.3d 1103, 1109 (9th Cir. 2009) (applying prisoner mailbox rule to
28 § 1983 cases). Plaintiff requested a sixteen or twenty-one day extension; the Court extended time to
respond by sixteen days. (ECF No. 49, at 2.) Twenty-one days has elapsed and Plaintiff has not filed his
objections.

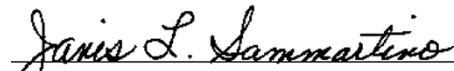
1 and failed to timely object to the Report and Recommendation.

2 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district
3 court’s duties in connection with a magistrate judge’s R&R. The district court must “make
4 a de novo determination of those portions of the report to which objection is made,” and
5 “may accept, reject, or modify, in whole or in part, the findings or recommendations made
6 by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447
7 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). In
8 the absence of timely objection, however, the Court “need only satisfy itself that there is
9 no clear error on the face of the record in order to accept the recommendation.” Fed. R.
10 Civ. P. 72 advisory committee’s note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196,
11 206 (9th Cir. 1974)).

12 Here, Plaintiff failed to file timely objections to Judge Burkhardt’s R&R. Having
13 reviewed the R&R, the Court finds that it is well reasoned and contains no clear error.
14 Accordingly, the Court **ADOPTS** in its entirety Judge Burkhardt’s R&R (ECF No. 46),
15 and **GRANTS** Defendant’s Motion for Summary Judgment, (ECF No. 41). This Order
16 concludes litigation in this case and the Clerk of Court **SHALL** close the file.

17 **IT IS SO ORDERED.**

18 Dated: August 28, 2018

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20 Hon. Janis L. Sammartino
21 United States District Judge
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