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

CHARLES RAY CATHY,

Plaintiff,

v.

S. MCCAIN, M. MCKINZIE,
SERGEANT CASTRO, G.
HERNANDEZ,

Defendants.

CASE NO. 16cv1256 DMS (WVG)

**ORDER (1) ADOPTING REPORT
AND RECOMMENDATION AND
(2) GRANTING PLAINTIFF'S
MOTION TO AMEND**

On May 25, 2016, Plaintiff Charles Ray Cathy ("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 Calipatria State Prison.

On June 28, 2016, the Court dismissed Plaintiff's Complaint pursuant to 28 U.S.C. § 1915A(b), and gave him forty-five days to file a First Amended Complaint. Plaintiff filed his First Amended Complaint on August 8, 2016, and on August 12, 2016, the Court issued an order directing the U.S. Marshal to serve the First Amended Complaint upon Defendants.

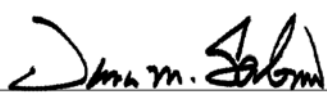
Subsequent to that order but before service had been effected, Plaintiff filed the present motion requesting leave to correct his First Amended Complaint. This Court, Magistrate Judge William V. Gallo presiding, construed that motion as a motion for leave to amend the First Amended Complaint. On September 29, 2016, Judge Gallo

1 issued a Report and Recommendation (“R&R”), recommending that the Court grant
2 Plaintiff’s motion. No party has filed objections to the R&R, and the time for doing so
3 has expired.

4 This Court, having reviewed *de novo* the Magistrate Judge’s R&R, adopts the
5 R&R in its entirety. Plaintiff’s motion for leave to amend his First Amended Complaint
6 is granted.

7 **IT IS SO ORDERED.**

8 DATED: December 12, 2016



HON. DANA M. SABRAW
United States District Judge

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