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

KELVIN X. SINGLETON,
Plaintiff,

v.

SCOTT KERNAN, *et al.*
Defendants.

Case No. 16-cv-02462-BAS-NLS

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION IN ITS
ENTIRETY [ECF No. 68], AND**

**(2) DENYING MOTION TO
SUPPLEMENT FIRST
AMENDED COMPLAINT [ECF
No. 38]**

20 Plaintiff Kelvin X. Singleton (“Plaintiff”) is incarcerated at the California State
21 Prison, Sacramento (“CALSAC”), located in Represa, California. Proceeding *pro*
22 *se*, Plaintiff filed a civil complaint pursuant to 42 U.S.C. § 1983 concerning
23 retaliation against him when he was incarcerated at the R.J. Donovan Correctional
24 Facility (“RJD”) in San Diego, California. (ECF No. 1.) Plaintiff subsequently
25 requested leave to amend his complaint twice, which was granted. (ECF Nos. 8, 27,
26 29, 31.) Plaintiff subsequently filed his First Amended Complaint (the “FAC”) on
27 May 19, 2017. (ECF No. 32.) On June 23, 2017, the Plaintiff filed an *ex parte* motion
28 to supplement his FAC to add new defendants at CALSAC and allegations

1 concerning their conduct. (ECF No. 38.) This Court referred Plaintiff's *ex parte*
2 motion to supplement the FAC to Magistrate Judge Nita L. Stormes. Defendants
3 have opposed Plaintiff's request (ECF No. 43), and Plaintiff submitted a reply in
4 support of his request (ECF No. 49).

5 On September 12, 2017, Judge Stormes issued a Report and Recommendation
6 ("R&R"), which recommended that Plaintiff's request for leave to supplement the
7 FAC be denied without prejudice to Plaintiff filing claims concerning his new
8 allegations in the United States District Court for the Eastern District of California.
9 (ECF No. 68.) The deadline for any party to submit written objections to the R&R
10 was September 27, 2017 (*id.*); no party has submitted any objections.

11 **I. ANALYSIS**

12 The Court reviews *de novo* those portions of an R&R to which objections are
13 made. 28 U.S.C. § 636(b)(1). The Court may "accept, reject, or modify, in whole or
14 in part, the findings or recommendations made by the magistrate judge." *Id.* "The
15 statute makes it clear," however, "that the district judge must review the magistrate
16 judge's findings and recommendations *de novo* if objection is made, but not
17 otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en
18 banc) (emphasis in original); *see also* *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
19 1226 (D. Ariz. 2003) (concluding that where no objections were filed, the district
20 court had no obligation to review the magistrate judge's report). "Neither the
21 Constitution nor the statute requires a district judge to review, *de novo*, findings and
22 recommendations that the parties themselves accept as correct." *Reyna-Tapia*, 328
23 F.3d at 1121. This legal rule is well-established in the Ninth Circuit and this district.
24 *See* *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005) ("Of course, *de novo*
25 review of a[n] R & R is only required when an objection is made to the R & R.");
26 *Nelson v. Giurbino*, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopting
27 report in its entirety without review because neither party filed objections to the
28 report despite the opportunity to do so); *see also* *Nichols v. Logan*, 355 F. Supp. 2d

1 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

2 In this case, the deadline for filing objections was September 27, 2017. (ECF
3 No. 68.) However, no objections have been filed, and no party has requested
4 additional time to do so. Consequently, the Court may adopt the R&R on that basis
5 alone. *See Reyna-Tapia*, 328 F.3d at 1121.


6 Nonetheless, having conducted a *de novo* review of the parties' motions and
7 the magistrate judge's R&R, the Court concludes that Judge Stormes' reasoning is
8 sound. The R&R is thorough, well-reasoned, and correctly concludes that Plaintiff's
9 request for leave to supplement the FAC should be denied due to the futility of such
10 amendment. Specifically, Plaintiff fails to allege any plausible causal connection
11 between the new CALSAC defendants he seeks to add and the retaliation claims
12 against the existing RJD defendants that form the basis of this case. (ECF No. 68.)
13 Moreover, the Court agrees that permitting amendment or a supplement to the FAC
14 to join additional defendants from another prison in another judicial district on
15 unrelated claims would not serve judicial economy. (*Id.*) Therefore, the Court
16 hereby approves and **ADOPTS IN ITS ENTIRETY** the R&R. *See* 28 U.S.C. §
17 636(b)(1).

18 **II. CONCLUSION & ORDER**

19 Having reviewed the R&R and there being no objections, the Court **ADOPTS**
20 **IN ITS ENTIRETY** the R&R. (ECF No. 68). Plaintiff's motion for leave to
21 supplement the FAC in this case is **DENIED**. The Court's denial is without prejudice
22 to Plaintiff pursuing his new claims in an appropriate venue.

23 **IT IS SO ORDERED.**

24
25 **DATED: September 28, 2017**


26 **Hon. Cynthia Bashant**
27 **United States District Judge**