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

GARY DUANE DICKEY,

Plaintiff,

v.

GILBERT MENDOZA, and THE,
WARDEN,

Defendants.

CASE NO. 17-cv-206-WQH-AGS

ORDER

HAYES, Judge:

The matter before the Court is the review of the Report and Recommendation issued by United States Magistrate Judge recommending that the motion to dismiss filed by the Warden (ECF No. 11) be granted. (ECF No. 37).

The duties of the district court in connection with a report and recommendation of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b). The district judge must “make a de novo determination of those portions of the report . . . to which objection is made,” and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b). The district court need not review de novo those portions of a Report and Recommendation to which neither party objects. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (“Neither the Constitution nor the [Federal Magistrates Act]


1 requires a district judge to review, de novo, findings and recommendations that the
2 parties themselves accept as correct.”).

3 The Court has reviewed the Report and Recommendation, the record, and the
4 submissions of the parties. The Court finds that the Magistrate Judge correctly
5 recommended that the Motion to Dismiss the warden be granted.

6 **III. Conclusion**

7 IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 37)
8 is adopted in its entirety. The motion to dismiss the Warden (ECF No. 11) is granted.

9 DATED: January 5, 2018

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11 **WILLIAM Q. HAYES**
12 United States District Judge
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