1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 WILLIAM M. GATES, CASE NO. 17CV901-WQH-BGS 11 Plaintiff, **ORDER** 12 H. GOMEZ, Correctional Officer; H. 13 FLORENDO, Psych Tech/Nurse; and C. GODINEZ, Sergeant/Correctional 14 Officers, Defendants. 15 16 HAYES, Judge: 17 The matter before the Court is the review of the Report and Recommendation 18 issued by United States Magistrate Judge (ECF No. 17) recommending that the 19 Defendants' motion for summary judgment (ECF No. 14) be granted and Defendants' 20 motion to dismiss (ECF No. 13) be granted in part and denied in part. 21 The duties of the district court in connection with a report and recommendation 22 of a magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 23 U.S.C. § 636(b). The district judge must "make a de novo determination of those 24 portions of the report . . . to which objection is made," and "may accept, reject, or 25 modify, in whole or in part, the findings or recommendations made by the magistrate." 26 28 U.S.C. § 636(b). The district court need not review de novo those portions of a 27 Report and Recommendation to which neither party objects. See Wang v. Masaitis, 416 28

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

No party has filed an objection to the Report and Recommendation. The Court has reviewed the Report and Recommendation, the record, and the submissions of the parties.

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 17) is adopted in its entirety. IT IS FURTHER ORDERED that Defendants' motion to dismiss (ECF No. 13) is granted in part and denied in part as set forth in the Report and Recommendation and Defendants' motion for summary judgment (ECF No. 14) is granted. This case is dismissed. The Clerk is ordered to enter judgment in favor of Defendants and against Plaintiff and to close the case.

DATED: August 28, 2018

WILLIAM Q. HAYES
United States District Judge