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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL WATTS,

No. CIV S-10-0748 MCE EFB PS

Plaintiff,

vs.

CITY OF DAVIS; RUTH ASMUNDSON;  
LANDY BLACK; BILL EMLLEN;

FINDINGS AND RECOMMENDATIONS

Defendants.

\_\_\_\_\_ /  
This case, in which plaintiff is proceeding *in propria persona*, is before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21). See 28 U.S.C. § 636(b)(1). On June 24, 2010, the undersigned granted plaintiff's request to proceed *in forma pauperis*, directed the clerk to provide plaintiff with the forms required to effect service on defendants, and directed plaintiff to provide to the U.S. Marshal within fourteen days all information needed to effect service of process and to file a statement with the court within fourteen days thereafter that the documents were submitted. Dckt. No. 3. Also on June 24, 2010, the court issued an order which, among other things, set a status (pretrial scheduling) conference for November 3, 2010, directed plaintiff to serve a copy of the order concurrently with service of process, and directed the parties to file status reports within fourteen days of the November 3, 2010 conference, or in this instance, by October 20, 2010. Dckt. No. 4.

1 The docket reveals that plaintiff has not filed a statement that the service documents were  
2 submitted to the Marshal, and the Marshal indicated on October 19, 2010 that he has not  
3 received the service documents from plaintiff. Additionally, plaintiff did not file a status report,  
4 as required by the June 24, 2010 order. Therefore, the undersigned will vacate the status  
5 (pretrial scheduling) conference and will recommend that this case be dismissed for failure to  
6 prosecute. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110 (“Failure of counsel or of a party to  
7 comply with these Rules or with any order of the Court may be grounds for imposition by the  
8 Court of any and all sanctions authorized by statute or Rule or within the inherent power of the  
9 Court.”); *see also* E.D. Cal. L.R. 183 (“Any individual representing himself or herself without an  
10 attorney is bound by the Federal Rules of Civil or Criminal Procedure and by these Local  
11 Rules.”); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s  
12 local rules is a proper ground for dismissal.”).

13 Accordingly, IT IS HEREBY ORDERED that the status conference currently scheduled  
14 for November 3, 2010, is vacated.<sup>1</sup>

15 IT IS FURTHER RECOMMENDED that:

- 16 1. This action be dismissed pursuant to Federal Rule of Civil Procedure 41(b), based on  
17 plaintiff’s failure to prosecute the action; and  
18 2. The Clerk be directed to close this case.

19 These findings and recommendations are submitted to the United States District Judge  
20 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
21 after being served with these findings and recommendations, any party may file written  
22 objections with the court and serve a copy on all parties. Such a document should be captioned

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26 <sup>1</sup> If the recommendation of dismissal herein is not adopted by the district judge, the undersigned will reschedule the status conference and require the parties to submit status reports.

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
2 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
3 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

4 DATED: October 27, 2010.

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6 EDMUND F. BRENNAN  
7 UNITED STATES MAGISTRATE JUDGE  
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