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

DEXTER BROWN,

Plaintiff,

No. 2: 11-cv-3053 KJM KJN P

vs.

EDMUND BROWN, et al.,

Defendants.

FINDINGS & RECOMMENDATIONS

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Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On April 12, 2012, the undersigned dismissed plaintiff's amended complaint with thirty days to file a second amended complaint. Thirty days passed and plaintiff did not respond to the April 12, 2012 order. Accordingly, on May 25, 2012, the undersigned recommended that this action be dismissed.

On May 29, 2012, plaintiff filed a motion for an extension of time to file his second amended complaint. Good cause appearing, on June 6, 2012, the undersigned vacated the May 25, 2012 findings and recommendations and granted plaintiff thirty days to file his second amended complaint.

Thirty days passed from the June 6, 2012 order and plaintiff did not file his second amended complaint. Accordingly, on July 20, 2012, the undersigned again recommended


1 that this action be dismissed. On July 23, 2012, plaintiff filed a request for appointment of
2 counsel. Because this request demonstrated an interest by plaintiff in prosecuting this action,
3 plaintiff was granted one final opportunity to file a second amended complaint. Accordingly, on
4 August 20, 2012, plaintiff was granted thirty days to file a second amended complaint.

5 The thirty day period set in the August 20, 2012 order has now expired, and
6 plaintiff has not filed a second amended complaint or otherwise responded to the court's order.

7 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed
8 without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

9 These findings and recommendations are submitted to the United States District
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
11 days after being served with these findings and recommendations, plaintiff may file written
12 objections with the court. The document should be captioned "Objections to Magistrate Judge's
13 Findings and Recommendations." Any response to the objections shall be filed and served
14 within fourteen days after service of the objections. Plaintiff is advised that failure to file
15 objections within the specified time may waive the right to appeal the District Court's order.
16 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: October 16, 2012

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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