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

DAVID LEE WHITE,
Plaintiff,
vs.

No. 2:12-cv-1552 EFB P

STATE OF CALIFORNIA,
Defendant.

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On October 4, 2012, the court dismissed plaintiff’s complaint, explained the complaint’s deficiencies, gave plaintiff 30 days to file an amended complaint correcting those deficiencies, and warned plaintiff that failure to file an amended complaint would result in a recommendation that this action be dismissed. The 30-day period has expired and plaintiff has not filed an amended complaint or otherwise responded to the court’s order.

A party’s failure to comply with any order or with the Local Rules “may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” E.D. Cal. Local Rule 110. The court may recommend that an

1 action be dismissed with or without prejudice, as appropriate, if a party disobeys an order or the
2 Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not
3 abuse discretion in dismissing *pro se* plaintiff's complaint for failing to obey an order to re-file
4 an amended complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856
5 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for *pro se* plaintiff's failure to comply with local
6 rule regarding notice of change of address affirmed).

7 Accordingly, it is hereby ORDERED that the Clerk of the Court randomly assign a
8 United States District Judge to this action.

9 Further, it is hereby RECOMMENDED that this action be dismissed without prejudice.
10 Fed. R. Civ. P. 41(b); E.D. Cal. Local Rule 110.

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
13 after being served with these findings and recommendations, any party may file written
14 objections with the court and serve a copy on all parties. Such a document should be captioned
15 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
16 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
17 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: November 9, 2012.

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21 EDMUND F. BRENNAN
22 UNITED STATES MAGISTRATE JUDGE
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