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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES S. ALEXANDER,
Plaintiff,
v.
SOLANO COUNTY DETENTION
FACILITY, et al.,
Defendants.

No. 2:13-cv-2566 GEB CKD P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On October 21, 2015, defendants filed their second motion for summary judgment in this action. (ECF No. 59.) Plaintiff did not timely oppose the motion. On December 9, 2015, plaintiff was ordered to file an opposition or a statement of non-opposition to defendants’ motion within thirty days. Plaintiff was informed that failure to comply with this order would result in dismissal of this action pursuant to Fed. R. Civ. P. 41(b). (ECF No. 61.)

The thirty day period has now expired, and plaintiff has not filed an opposition to the pending motion. Multiple times in this action, plaintiff has been advised of the procedural requirements for opposing summary judgment. (ECF Nos. 15, 22-1 & 59-10; see L.R. 260(b).) Plaintiff has made no attempt to comply with these requirements. Rather, he has filed a one-page “motion for summary judgment” supported by a one-page declaration. (ECF No. 62.) This document is the same one plaintiff filed on March 26, 2015, except that plaintiff has now signed

1 it. (Compare ECF No. 39 with ECF No. 62.) Plaintiff's recycled declaration does not
2 meaningfully address the evidence set forth in defendants' motion, nor does his two-page filing
3 meet the procedural rules for opposing summary judgment.

4 As plaintiff has neither complied, nor made a good-faith effort to comply, with the
5 December 9, 2015 order, the undersigned will recommend that this action be dismissed pursuant
6 to Federal Rule of Civil Procedure 41(b). See Fingerhut Corp. v. Ackra Direct Mktg. Corp., 86
7 F.3d 852, 856–57 (8th Cir. 1996) (stating that pro se representation does not excuse a litigant
8 from complying with court orders); Jourdan v. Jabe, 951 F.2d 108, 109 (6th Cir. 1991)
9 (explaining that courts should liberally construe pro se plaintiffs' legal arguments and strictly
10 construe their compliance with procedural requirements); see also Carter v. Comm'r of Internal
11 Revenue, 784 F.2d 1006, 1008–09 (9th Cir. 1986) (noting that pro se plaintiffs must follow the
12 rules of the court).

13 For the foregoing reasons, IT IS HEREBY RECOMMENDED that:

- 14 1. Defendants' motion for summary judgment (ECF No. 59) be denied as moot; and
- 15 2. This action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
18 after being served with these findings and recommendations, any party may file written
19 objections with the court and serve a copy on all parties. Such a document should be captioned
20 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
21 objections shall be filed and served within fourteen days after service of the objections. The
22 parties are advised that failure to file objections within the specified time may waive the right to
23 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

24 Dated: February 4, 2016

25 
26 CAROLYN K. DELANEY
27 UNITED STATES MAGISTRATE JUDGE