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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN McMILLAN,
Plaintiff,
v.
TIM V. VIRGA, et al.,
Defendants.

No. 2:14-cv-1106 TLN CKD P

FINDINGS AND RECOMMENDATIONS

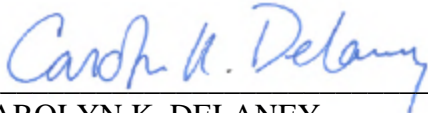
Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on the first amended complaint against defendant Ma. (ECF Nos. 9 & 12.) On February 25, 2016, defendant Ma filed a motion for summary judgment. (ECF No. 35.) On April 1, 2016, plaintiff was ordered to file an opposition or a statement of non-opposition to the pending motion by April 30, 2016. Plaintiff was informed that failure to do so would result in dismissal of this action pursuant to Fed. R. Civ. P. 41(b). (ECF No. 36.) After plaintiff filed a Notice of Change of Address on April 18, 2016, this order was re-served on plaintiff. Plaintiff has not responded to the order.

For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
4 objections shall be filed and served within fourteen days after service of the objections. The
5 parties are advised that failure to file objections within the specified time may waive the right to
6 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

7 Dated: May 19, 2016

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10 CAROLYN K. DELANEY
11 UNITED STATES MAGISTRATE JUDGE

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