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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAMON JONES,

Plaintiff,

v.

JAMES YATES, et al.,

Defendants.

CASE NO. 1:06-cv-01812-AWI-YNP PC

ORDER TO SHOW CAUSE WHY THIS ACTION SHOULD NOT BE DISMISSED FOR PLAINTIFF’S FAILURE TO PROSECUTE

SHOW CAUSE DUE WITHIN 20 DAYS

Plaintiff Damon Jones (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On August 18, 2009, Defendant filed a motion to dismiss this action pursuant to Federal Rule of Civil Procedure 12(b)(6) based on Plaintiff’s failure to state any claims. Plaintiff has not filed an opposition or statement of no opposition. The Court notes that it has not received any communication whatsoever from Plaintiff since Plaintiff filed a notice on February 24, 2009 in response to the Court’s January 23, 2009 screening order. Since then, Plaintiff was required by local rule to respond to Defendant’s August 18, 2009 motion to dismiss by filing an opposition or statement of no opposition. Plaintiff did not respond to Defendant’s motion to dismiss. Plaintiff was further served with a copy of the Court’s October 9, 2009 Findings and Recommendations which recommended the granting of Defendant’s motion to dismiss.¹ Plaintiff was to file an opposition, if any, to that Findings and Recommendation within thirty days. Plaintiff did not respond to the

¹The district judge assigned to this case declined to adopt the findings and recommendations recommending that Defendant’s motion to dismiss be granted.

1 Court's Findings and Recommendation. "It is within the inherent power of the court to sua sponte
2 dismiss a case for lack of prosecution." Ash v. Cvetkov, 739 F.2d 493, 496 (9th Cir. 1984). Thus,
3 Plaintiff will also be ordered to show cause why this action should not be dismissed based on
4 Plaintiff's failure to prosecute.

5 Based on the foregoing, the Court HEREBY ORDERS PLAINTIFF TO SHOW CAUSE
6 **within TWENTY (20) days of the date of service of this Order**, why this action should not be
7 dismissed based on Plaintiff's failure to prosecute.

8 Plaintiff is **forewarned that the failure to show cause may result in a recommendation**
9 **that this action be dismissed due to Plaintiff's failure to obey a court order.**

10
11 IT IS SO ORDERED.

12 **Dated: January 5, 2010**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE