1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
10		
11	KELVIN X. SINGLETON,	1:08-cv-00095-AWI-GSA-PC
12	Plaintiff,	ORDER REQUIRING PLAINTIFF TO FILE
13	v.	OPPOSITION OR STATEMENT OF NON- OPPOSITION TO DEFENDANT VASQUEZ'S
14	HEDGEPATH, et al.,	MOTION TO DISMISS WITHIN THIRTY DAYS
15	Defendants.	(Doc. 174.)
16	/	
17	On April 26, 2011, defendant Vasquez ("Defendant") filed a motion to dismiss. (Doc. 174.)	
18	Plaintiff was required to file an opposition or a statement of non-opposition to the motion within	
19	twenty-one days, but has not done so. Local Rule 230(1).	
20	Local Rule 230(1) provides that the failure to oppose a motion "may be deemed a waiver	
21	of any opposition to the granting of the motion" The court will deem any failure to oppose	
22	Defendant's motion to dismiss as a waiver, and recommend that the motion be granted on that	
23	basis.	
24	Failure to follow a district court's local rules is a proper grounds for dismissal. U.S. v.	
25	Warren, 601 F.2d 471, 474 (9th Cir. 1979). Thus, a court may dismiss an action for plaintiff's	
26	failure to oppose a motion to dismiss, where the applicable local rule determines that failure to	
27	oppose a motion will be deemed a waiver of opposition. See Ghazali v. Moran, 46 F.3d 52 (9th	
28	Cir. 1995), cert. denied 516 U.S. 838 (1995) (dismissal upheld even where plaintiff contends he	
	did not receive motion to dismiss, where plaintiff had adequate notice, pursuant to Fed. R. Civ.	

1	P. 5(b), and time to file opposition); cf. Marshall v. Gates, 44 F.3d 722, 725 (9th Cir. 1995);
2	Henry v. Gill Industries, Inc., 983 F.2d 943, 949-50 (9th Cir. 1993) (motion for summary
	judgment cannot be granted simply as a sanction for a local rules violation, without an
4	appropriate exercise of discretion).

Accordingly, within thirty days of the date of service of this order, Plaintiff shall file an
opposition or statement of non-opposition to the motion to dismiss filed by Defendant Vasquez.
If Plaintiff fails to comply with this order, the Court will deem the failure to respond as a waiver,
and recommend that the motion be granted on that basis.

IT IS SO ORDERED.

Dated: <u>July 7, 2011</u>

/s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE