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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GREGORY RODRIGUEZ,

CASE NO. 1:09-cv-02184-AWI-SKO PC

Plaintiff,

ORDER (1) REQUIRING PLAINTIFF TO PAY
DEFENDANT \$630.00 IN INCURRED
EXPENSES, (2) ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL, AND (3)
DISMISSING THE ACTION, WITH
PREJUDICE, FOR FAILURE TO PROSECUTE

v.

HOPKINS,

Defendant.

(Docs. 32 and 33)

Plaintiff Gregory Rodriguez, a former state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on December 16, 2009. This action is proceeding against Defendant Hopkins for use of excessive physical force, in violation of the Eighth Amendment.

This action was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On January 30, 2013, the Magistrate Judge issued a Findings and Recommendations recommending dismissal of this action based on Plaintiff’s failure to prosecute. Objections were due within fifteen days, but neither party objected.¹

In addition, the Magistrate Judge issued an order granting Defendant’s motion to compel responses to discovery requests and requiring Plaintiff to show cause within fifteen days why he should not be ordered to pay the reasonable expenses incurred by Defendant in bringing the motion to compel. Fed. R. Civ. P. 37(a)(5). Plaintiff did not file a response.

¹ The United States Postal Service recently returned several court documents as undeliverable. Notations on the envelopes state “Attempted - Not Known.” However, Plaintiff has not notified the Court of any change in his address. Absent such notice, service at a party’s prior address is fully effective. Local Rule 182(f).

1 In seeking reasonable expenses, Defendant's counsel attested that Defendant incurred
2 attorney's fees in the amount of \$630.00 in preparing the motion to compel. (Doc. 29-1, Coleman
3 Dec., ¶10.) Counsel estimated that with a reply brief and a hearing, the fees would amount to
4 \$1,050.00. (*Id.*) Defendant did not file a reply brief, as Plaintiff did not oppose the motion to
5 compel, and there was no hearing on the matter. Local Rule 230(l). Therefore, Defendant is entitled
6 to \$630.00. Fed. R. Civ. P. 37(a)(5).

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a *de*
8 *novo* review of this case. Having carefully reviewed the entire file, the Court finds the Findings and
9 Recommendations to be supported by the record and by proper analysis.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. Plaintiff is required to pay Defendant, in care of Defendant's counsel, \$630.00, which
12 reflects the attorney's fees incurred in bringing the motion to compel;
- 13 2. The Findings and Recommendations, filed on January 30, 2013, is adopted in full;
- 14 3. This action is dismissed, with prejudice, for failure to prosecute; and
- 15 4. The Clerk's Office shall enter judgment against Plaintiff.

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17 IT IS SO ORDERED.

18 Dated: March 26, 2013



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20 SENIOR DISTRICT JUDGE
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