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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

LEE OUTLAW,

Plaintiff,

v.

JOHN/JANE DOE, WARDEN, et al.,

Defendants.

CASE NO. 1:10-cv-01021-AWI-GBC PC

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF ACTION,  
WITHOUT PREJUDICE, FOR FAILURE TO  
PROSECUTE

OBJECTIONS DUE WITHIN FIFTEEN DAYS

Plaintiff is or was a state prisoner proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On August 10, 2011, the Court mailed Plaintiff a Notice of Docket Correction. Doc. 18. On August 18, 2011, the Court’s Order was returned as undeliverable.

Pursuant to Local Rule 183(b), a party appearing *in propria persona* is required to keep the Court apprised of his or her current address at all times. Local Rule 183(b) provides, in pertinent part:

If mail directed to a plaintiff *in propria persona* by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

In the instant case, more than sixty-three days have passed since Plaintiff’s mail was returned, and he has not notified the Court of a current address.

“In determining whether to dismiss an action for lack of prosecution, the district court is required to consider several factors: ‘(1) the public’s interest in expeditious resolution of litigation;

1 (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public  
2 policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
3 sanctions.” *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779  
4 F.2d 1421, 1423 (9th Cir. 1986)). These factors guide a court in deciding what to do, and are not  
5 conditions that must be met in order for a court to take action. *In re Phenylpropanolamine (PPA)*  
6 *Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted).

7 In this instance, Local Rule 183(b) provides for the dismissal of an action based on returned  
8 mail. Given the Court’s inability to communicate with Plaintiff, dismissal is warranted and there  
9 are no other reasonable alternatives available. *See Carey*, 856 F.2d at 1441.

10 Accordingly, it is hereby RECOMMENDED that this action be dismissed, without prejudice,  
11 based on Plaintiff’s failure to prosecute pursuant to Local Rule 183(b).

12 These Findings and Recommendations will be submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fifteen (15) days**  
14 after being served with these Findings and Recommendations, Plaintiff may file written objections  
15 with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
16 Recommendations.” Plaintiff is advised that failure to file objections within the specified time may  
17 waive the right to appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18  
19 IT IS SO ORDERED.

20 Dated: November 7, 2011

  
21 \_\_\_\_\_  
22 UNITED STATES MAGISTRATE JUDGE