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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KORY T. O'BRIEN,
Plaintiff,

v.

SIED, et al.,

Defendants.

Case No. 1:16-cv-01178-SKO (PC)
ORDER DISMISSING ACTION WITHOUT PREJUDICE FOR PLAINTIFF'S FAILURE TO OBEY A COURT ORDER AND TO PAY FILING FEE OR FILE PROPER APPLICATION TO PROCEED *IN FORMA PAUPERIS*
(Docs. 9, 10)

Plaintiff, Kory T. O'Brien, is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. On September 2, 2016, an order issued for Plaintiff to submit a correct application to proceed *in forma pauperis*, or to pay the filing fee within 45 days. (Doc. 9.)¹ Despite lapse of more than the time allowed, Plaintiff has not complied with or otherwise responded to the Court's order. (*Id.*) Plaintiff was warned that recommendation for dismissal would issue if he failed to obey the order. (*Id.*) Further, on December 2, 2016, an order issued for Plaintiff to show cause within thirty days why the action should not be dismissed for his failure to prosecute and comply with the Court's order. (Doc. 10.) Despite lapse of more than the allowed time, Plaintiff has failed to file any response.

A civil action may not proceed absent the submission of either the filing fee or a completed, correct application to proceed *in forma pauperis*. 28 U.S.C. §§ 1914, 1915. Based on

¹ The proper form was provided with that order for Plaintiff's use. (*See* Doc. 9-1, pp. 2-3.)

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Plaintiff's failure to comply with the Court's order, dismissal of this action is appropriate. *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006); Local Rule 110.

Accordingly, it is HEREBY ORDERED that this action is dismissed without prejudice for Plaintiff's failure to comply with the Court's order and to pay the filing fee or file the correct application to proceed *in forma pauperis*.

IT IS SO ORDERED.

Dated: January 11, 2017

/s/ Sheila K. Olerto
UNITED STATES MAGISTRATE JUDGE