Case 1:16-cv-01666-DAD-BAM Document 104 Filed 07/20/21 Page 1 of 3 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 MARY LEE GAINES, No. 1:16-cv-01666-NONE-BAM (PC) 12 Plaintiff. 13 ORDER ADOPTING FINDINGS AND v. RECOMMENDATIONS RECOMMENDING 14 DISMISSAL OF ACTION, WITH BROWN, et al., PREJUDICE. FOR FAILURE TO 15 Defendants. PROSECUTE AND FAILURE TO OBEY COURT ORDER 16 (Doc. No. 102) 17 Plaintiff Mary Lee Gaines is a state prisoner proceeding pro se and in forma pauperis in 18 this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on plaintiff's first 19 20 amended complaint against defendants Mirelez and Hoehing for deliberate indifference to 21 medical needs in violation of the Eighth Amendment. 22 On December 16, 2020, defendants filed a motion for summary judgment. Fed. R. Civ. P. 56. (Doc. No. 92.) Plaintiff was provided with notice of the requirements for opposing a motion 23 24 for summary judgment. Woods v. Carey, 684 F.3d 934 (9th Cir. 2012); Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1988); Klingele v. Eikenberry, 849 F.2d 409, 411–12 (9th Cir. 1988). 25 26 (Doc. No. 92-1.) Plaintiff was granted three extensions of time to file her opposition. (Doc. Nos. 95, 97, 99.) In the order granting plaintiff's third extension of time, the assigned magistrate judge 27 28 warned plaintiff that any further requests for extension of this deadline would be subject to a 1

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narrow interpretation of what constitutes good cause. (Doc. No. 99 at 2.) Specifically, the magistrate judge indicated that plaintiff would be required to "describe what attempts she has made to access the law library at her institution of confinement, the result of those attempts, how many times she has successfully accessed the law library, and what specific further research or other acts must be accomplished using law library services before her opposition can be completed and submitted to the Court." (*Id.*)

On April 26, 2021, plaintiff filed a motion for a fourth extension of time to file her opposition. (Doc. No. 100.) Defendants filed an opposition on May 12, 2021. (Doc. No. 101.) Plaintiff did not file a reply.

On June 8, 2021, the magistrate judge issued an order denying plaintiff's fourth extension of time and findings and recommendations recommending dismissal of this action, with prejudice, for failure to prosecute and failure to obey a court order. (Doc. No. 102.) Those findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*) Plaintiff filed objections on June 24, 2021. (Doc. No. 103.)

In her objections, plaintiff argues that she should have been granted a fourth extension of time to file her opposition to defendants' summary judgment motion because she is incarcerated in a state prison and has not had access to the prison law library for over a year, since February 2019. (*Id.*) Plaintiff does not address defendants' contention that she has not requested law library access or PLU status for at least the last sixty days prior to filing her fourth request for extension of time. (*See* Doc. No. 101-1.)

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, including plaintiff's objections, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly,

1. The findings and recommendations issued on June 8, 2021, (Doc. No. 102), are adopted in full;

Case 1:16-cv-01666-DAD-BAM Document 104 Filed 07/20/21 Page 3 of 3 2. This action is dismissed, with prejudice, for failure to prosecute and failure to obey a court order; and 3. The Clerk of the Court is directed to assign a district judge to this case for the purpose of closing the case, terminate all pending motions, and close this case. IT IS SO ORDERED. Dated: July 20, 2021