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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CERRON T. DEJOHNETTE,

Plaintiff,

v.

O. GONZALEZ, et al,

Defendants.

1:17-cv-00696 DAD-JLT (PC)

**FINDINGS AND RECOMMENDATIONS
TO DISMISS ACTION FOR FAILURE TO
PROSECUTE AND FAILURE TO
COMPLY WITH A COURT ORDER**

(Doc. 30)

FOURTEEN-DAY DEADLINE

On April 18, 2018, defendants filed a motion for summary judgment for failure to exhaust administrative remedies. Following plaintiff’s repeated failure to file an opposition, the Court issued findings and recommendations to dismiss this action for failure to prosecute and failure to comply with a court order. (Doc. 30.) Although plaintiff failed to file timely objections, two recent notices of change of address filed by him suggested that he did not receive recent court orders, and therefore the Court withdrew the findings and recommendations and granted plaintiff additional time to file an opposition. Plaintiff has again failed to file an opposition or otherwise respond to the Court.

“Failure to follow a district court’s local rules is a proper ground for dismissal.” Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Pro se litigants are bound by the rules of procedure, even though pleadings are liberally construed in their favor. King v. Atiyeh, 814 F.2d 565, 567

1 (9th Cir. 1987); Jacobsen v. Filler, 790 F.2d 1362, 1364-65 (9th Cir.1986).

2 In determining to recommend that this action be dismissed, the court has considered the
3 five factors set forth in Ghazali, 46 F.3d at 53. Plaintiff's failure to comply with the Local Rules
4 has impeded the expeditious resolution of the instant litigation and has burdened the court's
5 docket, consuming scarce judicial resources in addressing litigation which plaintiff demonstrates
6 no intention to pursue. Although public policy favors disposition of cases on their merits,
7 plaintiff's failure to oppose the pending motion has precluded the court from doing so. In
8 addition, defendants are prejudiced by the inability to reply to opposition. Finally, the court has
9 repeatedly advised plaintiff of the requirements under the Local Rules and granted ample
10 additional time to oppose the pending motion, all to no avail. The court finds no suitable
11 alternative to dismissal of this action.

12 Accordingly, the Court **RECOMMENDS** that this action be dismissed pursuant to
13 Federal Rule of Civil Procedure 41(b).

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
19 objections shall be filed and served within fourteen days after service of the objections. The
20 parties are advised that failure to file objections within the specified time may waive the right to
21 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

22 IT IS SO ORDERED.

23 Dated: February 14, 2019

24 /s/ Jennifer L. Thurston
25 UNITED STATES MAGISTRATE JUDGE
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