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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLTON R. CALLINS,

Plaintiff,

v.

C. PFEIFFER, et al.,

Defendants.

Case No. 1:17-cv-00840-DAD-EPG (PC)

ORDER REQUIRING PLAINTIFF TO FILE
OPPOSITION OR STATEMENT OF NON-
OPPOSITION TO DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT
WITHIN THIRTY DAYS

Carlton Callins (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On November 22, 2019, Defendants filed a motion for summary judgment. (ECF No. 51). The Court gave Plaintiff until December 20, 2019, to file an opposition. (ECF No. 48, p. 2). The deadline for Plaintiff to respond to the motion has passed, and Plaintiff has not filed an opposition or a statement of non-opposition.

Local Rule 230(1) provides that the failure “to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions.” While a motion for summary judgment cannot be granted by default, Heinemann v. Satterberg, 731 F.3d 914, 916 (9th Cir. 2013), the Court does have other options when a party fails to respond. For example, if Plaintiff fails to respond, the Court may treat the facts asserted by Defendants as “undisputed for purposes of the motion.” Fed. R. Civ. P. 56(e)(2). Alternatively, if Plaintiff fails to oppose the motion or file a statement of non-

1 opposition, the Court may recommend that this case be dismissed for failure to prosecute and
2 failure to comply with court orders.

3 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that:

- 4 1. Within thirty days from the date of service of this order, Plaintiff shall file an
5 opposition or a statement of non-opposition¹ to Defendants' motion for summary
6 judgment;
- 7 2. If Plaintiff fails to comply with this order, in ruling on Defendants' motion for
8 summary judgment the Court may treat the facts asserted by Defendants in their
9 motion for summary judgment as undisputed. Alternatively, the Court may
10 recommend that this case be dismissed for failure to prosecute and failure to
11 comply with court orders; and
- 12 3. If Plaintiff files an opposition to Defendants' motion for summary judgment,
13 Defendants have fourteen days from the date of service of the opposition to file a
14 reply.

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16 IT IS SO ORDERED.

17 Dated: January 10, 2020

17 /s/ Eric P. Gray
18 UNITED STATES MAGISTRATE JUDGE

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28 ¹ Instead of filing a statement of non-opposition, Plaintiff and Defendants may stipulate to the dismissal of
this case.