

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JEROME MARKIEL DAVIS,

Plaintiff,

v.

STATE OF CALIFORNIA, *et al.*,

Defendants.

Case No. 1:18-cv-00832-DAD-BAM (PC)

**ORDER TO SHOW CAUSE WHY ACTION
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE**

(ECF No. 40)

TWENTY-ONE (21) DAY DEADLINE

Plaintiff Jerome Markiel Davis (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Roberts in her individual capacity for deliberate indifference in violation of the Eighth Amendment, arising from the alleged incident of food tampering.

On June 22, 2020, Defendant filed a motion for summary judgment. (ECF No. 40.) In the motion, Plaintiff was provided with notice of the requirements for opposing a motion for summary judgment. Woods v. Carey, 684 F.3d 934 (9th Cir. 2012); Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1988); Klinge v. Eikenberry, 849 F.2d 409, 411–12 (9th Cir. 1988). (ECF No. 40-1.) Pursuant to Local Rule 230(1) and Federal Rule of Civil Procedure 6(d), Plaintiff’s opposition or statement of no opposition was therefore due on or before July 16, 2020. The deadline for Plaintiff to respond to Defendant’s motion for summary judgment has expired, and

1 he has not otherwise been in contact with the Court. Plaintiff will be permitted one final
2 opportunity to show cause why this action should not be dismissed with prejudice.

3 Accordingly, it is HEREBY ORDERED that Plaintiff shall show cause by WRITTEN
4 RESPONSE within **twenty-one (21) days** of service of this order why this action should not be
5 dismissed, with prejudice, for failure to prosecute. Plaintiff may comply with the Court’s order
6 by filing an opposition or statement of non-opposition to Defendant’s June 22, 2020, motion for
7 summary judgment. **Plaintiff is warned that if he fails to comply with the Court’s order, this**
8 **matter will be dismissed with prejudice for failure to prosecute.**

9
10 IT IS SO ORDERED.

11 Dated: July 27, 2020

/s/ Barbara A. McAuliffe
12 UNITED STATES MAGISTRATE JUDGE

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28