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3 **UNITED STATES DISTRICT COURT**

4 EASTERN DISTRICT OF CALIFORNIA

5  
6 RAYQUIN RAY BROWN,  
7 Plaintiff,

8 v.

9  
10 THE CITY OF FRESNO, ET AL.,  
11 Defendants.

Case No. 1:18-cv-1428-AWI-SKO

**FINDINGS AND RECOMMENDATION  
TO DISMISS WITH PREJUDICE FOR  
PLAINTIFF'S FAILURE TO COMPLY  
WITH THE COURT'S ORDER AND  
FAILURE TO STATE A CLAIM**

**(Docs. 1, 4, 5)**

**TWENTY-ONE (21) DAY DEADLINE**

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14 On October 15, 2018, Plaintiff, proceeding pro se, filed a civil rights complaint against  
15 Defendants City of Fresno, Clovis Police Department, Sergeant V. Weibert, Officer N. Mason,  
16 Officer C. Taliaferro, Corporal S. Borsch, Officer M. Bradford, Officer E. Roehl, Officer E.  
17 Taifane, and Officer A. Fresnh purporting to allege causes of action under 42 U.S.C. § 1983  
18 (“section 1983”) for false arrest, excessive force, due process violations, and municipal and  
19 supervisory liability, and causes of action under state law for conspiracy and negligent hiring and  
20 retention. (Doc. 1. (“Compl.”) at 6–9.) Plaintiff seeks compensatory damages, punitive damages,  
21 and “reasonable attorneys’ fees, costs, and disbursements.” (*Id.* at 9.) Plaintiff also filed an  
22 application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, which was granted on  
23 October 17, 2018. (Docs. 2 & 3.)

24 On January 14, 2019, the undersigned issued a screening order finding that Plaintiff failed  
25 to state any cognizable claims and granted Plaintiff twenty-one days leave to file an amended  
26 complaint curing the pleading deficiencies identified in the order. (Doc. 4.) Although more than  
27 the allowed time has passed, Plaintiff has failed to file an amended complaint or otherwise respond  
28 to the screening order.

1 On February 19, 2019, an order issued for Plaintiff to show cause (“OSC”) within twenty-  
2 one days why the action should not be dismissed for his failure to comply with the Court’s screening  
3 order and for failure to state a claim. (Doc. 5.) Plaintiff was warned in both the screening order and  
4 the OSC that the failure to comply with the Court's order would result in a recommendation to the  
5 presiding district judge of the dismissal of this action. (*Id.*) Plaintiff has not yet filed any response.

6 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel or of  
7 a party to comply with . . . any order of the Court may be grounds for the imposition by the Court  
8 of any and all sanctions . . . within the inherent power of the Court.” Local Rule 110. *See also*  
9 Local Rule 183(a). “District courts have inherent power to control their dockets,” and in exercising  
10 that power, a court may impose sanctions, including dismissal of an action. *Thompson v. Housing*  
11 *Authority of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with  
12 prejudice, based on a party’s failure to prosecute an action or failure to obey a court order, or failure  
13 to comply with local rules. *See, e.g., Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)  
14 (dismissal for failure to comply with an order requiring amendment of complaint); *Malone v. U.S.*  
15 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court  
16 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute  
17 and to comply with local rules).

18 Based on Plaintiff’s failure to comply with, or otherwise respond to, the screening order and  
19 the OSC, there is no alternative but to dismiss the action for his failure to respond to/obey a court  
20 order, failure to prosecute, and failure to state a cognizable claim.

21 Accordingly, it is **HEREBY RECOMMENDED** that this action be dismissed, with  
22 prejudice, for Plaintiff’s failure to obey a court order, failure to prosecute this action, and failure to  
23 state a cognizable claim.

24 These Findings and Recommendation will be submitted to the United States District Judge  
25 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1)(B). **Within twenty-**  
26 **one (21) days** after being served with these Findings and Recommendation, Plaintiff may file  
27 written objections with the Court. The document should be captioned “Objections to Magistrate  
28 Judge’s Findings and Recommendation.” Plaintiff is advised that failure to file objections within

1 the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834,  
2 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

3           The Court DIRECTS the Clerk to send a copy of this Order to Plaintiff at his address listed  
4 on the docket for this matter.

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6 IT IS SO ORDERED.

7 Dated: March 26, 2019

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

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