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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY NELSON RUDAN,
Plaintiff,
v.
IMMIGRATION & CUSTOMS
ENFORCEMENT, et al.,
Defendants.

Case No. 1:19-cv-00241-JLT (PC)
**FINDINGS AND RECOMMENDATIONS
TO REVOKE PLAINTIFF’S *IN FORMA
PAUPERIS* STATUS AND TO DISMISS
WITHOUT PREJUDICE**
(Docs. 2, 4, 7)
21-DAY DEADLINE
Clerk to Assign a District Judge

This case was opened erroneously as a 28 U.S.C. § 2241 habeas corpus action. The Court determined that Plaintiff does not seek *habeas corpus* relief and redesignated it as a civil action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). Since this action proceeds now under *Bivens*, instead of § 2241, different filing fees apply. Upon review, the Court noted that Plaintiff failed to provide certification of his trust account balance as required on the *in forma pauperis* application form and has not subsequently submitted any such information. Thus, the Court ordered Plaintiff to show cause why his *in forma pauperis* status should not be revoked. (Doc. 7.) Plaintiff has not filed a response.

The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel, or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court.” Local Rule 110.

1 “District courts have inherent power to control their dockets,” and in exercising that power, a
2 court may impose sanctions, including dismissal. *Thompson v. Housing Authority of Los*
3 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based
4 on a party’s failure to prosecute an action or failure to obey a court order, or failure to comply
5 with local rules. *See, e.g. Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal
6 for failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal*
7 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order);
8 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and
9 to comply with local rules).

10 Not only did Plaintiff not file a response to the Court’s order, he has also not filed a
11 response to any of the other orders of the Court issued on February 25, 2019. (Doc. 6-1.) In fact,
12 it appears that Plaintiff is no longer in custody, has not kept the Court informed of his current
13 address, as ordered in the First Informational Order, (Doc. 6), and has abandoned this action.
14 (See entries for mail returned as undeliverable on February 27, 2010, March 4, 2019, and March
15 18, 2019.) Based on Plaintiff’s failure both to comply with the Court’s orders and to prosecute
16 this action, there is no alternative but to dismiss the action.

17 Accordingly, the Court **RECOMMENDS** that this action be dismissed based on
18 Plaintiff’s failure to obey a court order and to prosecute this action, 42 U.S.C. § 1997e (a). The
19 Clerk of the Court is directed to randomly assign a District Judge to this case.

20 These Findings and Recommendations will be submitted to the United States District
21 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). **Within 21-**
22 **days** after being served with these Findings and Recommendations, Plaintiff may file written
23 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s
24 Findings and Recommendations.”

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Failure to file objections within the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. Nov. 18, 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: April 9, 2019

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE