

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

ERIC HERNANDEZ,  
Plaintiff,  
v.  
KINGS COUNTY JAIL, et al.,  
Defendants.

Case No. 1:20-cv-01144-JLT (PC)  
**FINDINGS AND RECOMMENDATIONS  
TO DISMISS ACTION**  
14-DAY DEADLINE  
Clerk of the Court to Assign a District Judge

On February 6, 2021, the Court issued a screening order directing Plaintiff to file a first amended complaint curing the deficiencies in his pleading or a notice of voluntary dismissal. (Doc. 6.) Plaintiff failed to comply with the screening order within the time provided. Therefore, on March 17, 2021, the Court issued an order to show cause why this action should not be dismissed for failure to comply with the Court’s order. (Doc. 7.) The Court cautioned Plaintiff that “[f]ailure to comply with this order [would] result in a recommendation that this action be dismissed for failure to state a claim and to obey court orders.” (*Id.* at 2.) Plaintiff has failed to respond to the order to show cause, and the time to do so has passed.

The Local Rules, corresponding with Federal Rule of Civil Procedure 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. “District courts have inherent power to control their dockets” and, in exercising

1 that power, may impose sanctions, including dismissal of an action. *Thompson v. Housing Auth.*,  
2 *City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a  
3 party's failure to prosecute an action, obey a court order, or comply with local rules. *See, e.g.*,  
4 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a  
5 court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir.  
6 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 779 F.2d 1421,  
7 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local rules).

8 It appears that Plaintiff has abandoned this action. Whether he has done so intentionally or  
9 mistakenly is inconsequential. It is Plaintiff's responsibility to comply with the Court's orders and  
10 Local Rules. The Court declines to expend its limited resources on a case that Plaintiff has chosen  
11 to ignore.

12 Accordingly, the Court RECOMMENDS that this action be DISMISSED for failure to  
13 obey court orders and failure to state a claim on which relief can be granted. The Court DIRECTS  
14 the Clerk of the Court to assign a district judge to this action.

15 These Findings and Recommendations will be submitted to the United States District  
16 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). **Within 14 days** of the date of  
17 service of these Findings and Recommendations, Plaintiff may file written objections with the  
18 Court. The document should be captioned, "Objections to Magistrate Judge's Findings and  
19 Recommendations." Plaintiff's failure to file objections within the specified time may result in  
20 waiver of his rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing  
21 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

22  
23 IT IS SO ORDERED.

24 Dated: April 20, 2021

/s/ Jennifer L. Thurston  
CHIEF UNITED STATES MAGISTRATE JUDGE