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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK PAYNE,

Plaintiff,

No. CIV-S-04-1585 MCE KJM P

vs.

MULE CREEK STATE PRISON, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On June 8, 2010 defendants filed a motion for summary judgment. On July 14, 2010, plaintiff was ordered to file an opposition or a statement of non-opposition to the motion within thirty days. In the same order, plaintiff was informed that failure to file an opposition would result in a recommendation that this action be dismissed pursuant to Fed. R. Civ. P. 41(b).¹ The thirty day period has now expired and plaintiff has not responded to the court's order.

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¹ Although it appears from the file that plaintiff's copy of the July 14, 2010 order was returned, plaintiff was properly served. It is the plaintiff's responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

1 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be
2 dismissed pursuant to Federal Rule of Civil Procedure 41(b).

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
5 one days after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
8 objections shall be filed and served within seven days after service of the objections. The parties
9 are advised that failure to file objections within the specified time may waive the right to appeal
10 the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: August 25, 2010.

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13 U.S. MAGISTRATE JUDGE

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