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

JAMES OLIVER,

Plaintiff,

No. CIV S-06-0390 MCE EFB P

vs.

TOM CAREY, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On January 21, 2011, defendants filed a motion for summary judgment pursuant to Fed. R. Civ. P. 56. Plaintiff has not opposed the motion.

A responding party’s failure “to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions.” L. R. 230(1). Failure to comply with any order or with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.” L. R. 110. The court may recommend this action be dismissed with or without prejudice, as appropriate, if plaintiff disobeys an order or the Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1252 (9th Cir. 1992) (district court did not abuse discretion in dismissing *pro se* plaintiff’s complaint for failing to obey an order to re-file

1 an amended complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856
2 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for *pro se* plaintiff's failure to comply with local
3 rule regarding notice of change of address affirmed).

4 On May 5, 2009, and again on March 10, 2010, the court advised plaintiff of the
5 requirements for filing an opposition to the motion, that failure to oppose such a motion may be
6 deemed a waiver of opposition to the motion, and that failure to comply with the Local Rules
7 may result in a recommendation of dismissal.

8 The court recognizes that discovery was reopened for limited purposes by the order of
9 January 25, 2011. If plaintiff cannot oppose the motion for summary judgment until the
10 conclusion of that discovery, he must so inform the court by affidavit or declaration pursuant to
11 Federal Rule of Civil Procedure 56(d).

12 Accordingly, it is hereby ORDERED that, within twenty-one days of the date of this
13 order, plaintiff shall file either an opposition to the motion for summary judgment, a statement of
14 non-opposition, or an affidavit or declaration under Rule 56(d). Failure to comply with this
15 order will result in a recommendation that this action be dismissed without prejudice.

16 DATED: April 5, 2011.

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19 EDMUND F. BRENNAN
20 UNITED STATES MAGISTRATE JUDGE
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