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

MATTHEW LEE JASPAR,

Plaintiff,

No. CIV S-06-1177 GEB EFB P

vs.

KHOURY, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a prisoner without counsel seeking relief for alleged civil rights violations. *See* 42 U.S.C. § 1983. On July 24, 2009, the remaining defendants moved for summary judgment on the grounds that they were never deliberately indifferent to plaintiff’s medical needs and that they are entitled to qualified immunity. *See* Fed. R. Civ. P. 56. On March 27, 2008, the court advised plaintiff of the requirements for opposing a motion pursuant to Rule 56 of the Federal Rules of Civil Procedure. *See Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998) (*en banc*), *cert. denied*, 527 U.S. 1035 (1999), and *Klinge v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988). That order also informed plaintiff of the requirements for filing an opposition to the pending motion and that failure to oppose such a motion might be deemed a waiver of opposition to the motion. Plaintiff failed to file an opposition.

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1 On September 3, 2009, the court gave plaintiff 20 days to file an opposition or statement
2 of non-opposition and warned him that failure to do so could result in dismissal. *See* Fed. R.
3 Civ. P. 41(b). On September 16, 2009, plaintiff requested a 60-day extension of time to comply
4 with this order, and on September 21, 2009, the court granted the request. Again, plaintiff did
5 not file an opposition or a statement of no opposition.

6 Plaintiff has been warned that he must file a response to defendants' motion and has been
7 given an extension of time to do so. Plaintiff has disobeyed this court's orders. The appropriate
8 sanction is dismissal without prejudice.

9 Accordingly, it is RECOMMENDED that this action be dismissed without prejudice.
10 *See* Fed. R. Civ. P. 41(b).

11 These findings and recommendations are submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 21 days after
13 being served with these findings and recommendations, any party may file written objections
14 with the court and serve a copy on all parties. Such a document should be captioned "Objections
15 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
16 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
17 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: December 4, 2009.

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20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
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