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

JULIO CESAR IBANEZ,

Plaintiff,

No. CIV S-06-2668 KJM EFB P

vs.

M. MILLER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

_____/

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On June 15, 2011, defendant Bevan filed a motion for summary judgment. Dckt. No. 102; *see* Fed. R. Civ. P. 56. On May 8, 2008, and June 23, 2010, the court advised plaintiff of the requirements for opposing a motion pursuant to Rule 56 of the Federal Rules of Civil Procedure and informed plaintiff that failure to file an opposition to such a motion could be considered waiver of any such opposition. Dckt. Nos. 19, 65; *see Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998) (*en banc*), *cert. denied*, 527 U.S. 1035 (1999); *Klinge v. Eikenberry*, 849 F.2d 409, 411-12 (9th Cir. 1988). Plaintiff failed to file an opposition or statement of no opposition to the motion for summary judgment. Accordingly, on July 25, 2011, the court reminded plaintiff of his obligation to file an opposition, granted him twenty-one days in which to file it and warned him that failure to comply would result in a recommendation of dismissal.

1 To date, no opposition has been filed nor has plaintiff otherwise communicated with the court.
2 Plaintiff has been warned that he must file a response to defendants' motion. Plaintiff has
3 disobeyed this court's orders. The appropriate sanction is dismissal without prejudice.

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

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

13 Dated: September 20, 2011.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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