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

MAILLIARD KING,

Plaintiff,

No. 2:07-cv-0846 FCD JFM (PC)

vs.

D. K. SISTO, Warden, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On April 14, 2009, defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b). By order filed May 6, 2009, plaintiff’s request for an extension of time to file an opposition to the motion was granted and plaintiff was given thirty days from the date of the order in which to file and serve such opposition. That thirty days period has expired and plaintiff has not filed any response to defendants’ motion.<sup>1</sup>

Local Rule 78-230(m) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any

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<sup>1</sup> On June 26, 2009, plaintiff filed a request for a copy of a temporary restraining order that he filed on April 9, 2009. In that request, plaintiff represents that he does not have a copy of the motion to dismiss. Good cause appearing, defendants will be directed to reserve a copy of the motion to dismiss on plaintiff.

1 opposition to the granting of the motion . . . .” On October 24, 2007, plaintiff was advised of the  
2 requirements for filing an opposition to the motion and that failure to oppose such a motion may  
3 be deemed a waiver of opposition to the motion.

4 Local Rule 11-110 provides that failure to comply with the Local Rules “may be  
5 grounds for imposition of any and all sanctions authorized by statute or Rule or within the  
6 inherent power of the Court.” In the order filed October 24, 2007, plaintiff was advised that  
7 failure to comply with the Local Rules may result in a recommendation that the action be  
8 dismissed.

9 Good cause appearing, IT IS HEREBY ORDERED that:

10 1. Within five days from the date of this order defendants shall re-serve a copy of  
11 their April 14, 2009 motion to dismiss on plaintiff; and

12 2. Within thirty days of the date of this order, plaintiff shall file an opposition, if  
13 any he has, to the motion to dismiss or a statement of non-opposition. Failure to comply with  
14 this order will result in a recommendation that this action be dismissed pursuant Federal Rule of  
15 Civil Procedure 41(b).

16 DATED: July 7, 2009.

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19 UNITED STATES MAGISTRATE JUDGE

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