

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

LAWRENCE BIRKS ,

Plaintiff,

No. CIV S-07-1473 LKK DAD P

vs.

ROBERT SANTOS,

Defendant.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

By order filed February 7, 2008, plaintiff’s original complaint was dismissed and thirty days leave to file an amended complaint was granted. The court has since granted plaintiff several extensions of time to file an amended complaint. Most recently, on March 11, 2010, the court granted plaintiff thirty days leave to file an amended complaint and cautioned plaintiff that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and plaintiff has not filed an amended complaint or otherwise responded to the court’s order.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-

1 one days after being served with these findings and recommendations, plaintiff may file written  
2 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
3 Findings and Recommendations." Plaintiff is advised that failure to file objections within the  
4 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
5 F.2d 1153 (9th Cir. 1991).

6 DATED: April 21, 2010.

7  
8   
9 \_\_\_\_\_  
10 DALE A. DROZD  
11 UNITED STATES MAGISTRATE JUDGE

10 DAD:sj  
11 birk1473.fta

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26