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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK ANTHONY MORENO,
Plaintiff,
v.
DAVID MEDINA, et al.,
Defendants.

No. 2:08-cv-1344-JAM-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On April 2, 2014, defendants Hitchcock, James and Medina filed a motion for summary judgment and informed plaintiff of the requirements for opposing a motion for summary judgment. See Fed. R. Civ. P. 56; *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998). After multiple extensions of time, the court granted plaintiff a final extension of thirty days from October 17, 2014, in which to file his opposition. See ECF No. 149. That time for acting passed and plaintiff failed to file an opposition or a statement of non-opposition to the motion.

On December 4, 2014, the court warned plaintiff that failure to respond to the motion could result in a recommendation that this action be dismissed. See Fed. R. Civ. P. 41(b). The court also granted plaintiff a 14-day extension of time to respond. The time for acting has once again passed and plaintiff has not filed an opposition, a statement of non-opposition, or otherwise

1 responded to the court's order. Plaintiff has disobeyed this court's orders and failed to prosecute
2 this action. The appropriate action is dismissal without prejudice.

3 Accordingly, it is hereby RECOMMENDED that this action be dismissed. *See* Fed. R.
4 Civ. P. 41(b); E.D. Cal. Local Rule 110, 183(b).

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

12 Dated: January 5, 2015.

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14 EDMUND F. BRENNAN
15 UNITED STATES MAGISTRATE JUDGE
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