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

MIKA ALFARO,

Plaintiff,

No. CIV S-08-1997 FCD EFB PS

vs.

RITA MONTELONGO,

Defendant.

FINDINGS AND RECOMMENDATIONS

_____ /

Plaintiff is proceeding *pro se* in this action, which was referred to the undersigned pursuant to E. D. Cal. L. R. 72-302(c)(21). *See* 28 U.S.C. § 636(b)(1).

On October 15, 2008, this court denied without prejudice plaintiff’s incomplete application to proceed *in forma pauperis*, and dismissed with leave to amend her inadequately framed complaint. The court informed plaintiff that she could file an amended application to proceed *in forma pauperis* and an amended complaint within twenty days, or by November 4, 2008. *See* Order filed Oct. 15, 2008. The twenty-day period has expired, and plaintiff has not filed a complete application nor has she submitted and amended complaint or otherwise responded to the court’s order. It appears that plaintiff has abandoned this case.

Federal Rule of Civil Procedure 41(b) allows dismissal “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order . . .” *See also* E. D. Cal. L. R. 11-110

1 (“Failure of counsel or of a party to comply with these Rules or with any order of the Court may
2 be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or
3 within the inherent power of the Court”). Plaintiff’s *pro se* status does not derogate this
4 authority. “Any individual representing himself or herself without an attorney is bound by the
5 Federal Rules of Civil or Criminal Procedure and by these Local Rules. All obligations placed
6 on ‘counsel’ by these Local Rules apply to individuals appearing in propria persona. Failure to
7 comply therewith may be ground for dismissal, judgment by default, or any other sanction
8 appropriate under these Rules.” E. D. Cal. L. R. 83-183.

9 Accordingly, it is hereby RECOMMENDED that this action be dismissed for failure to
10 prosecute and failure to comply with the federal and local rules of court. *See* Fed. R. Civ. P.
11 41(b); E. D. Cal. L. R. 11-110.

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

19 DATED: January 26, 2009.

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22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE
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