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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   RUDOLPH PEDRO LEADER,

11   Plaintiff,   No. CIV-S-08-2123 WBS DAD (TEMP) P

12   vs.

13   DEPARTMENT OF CORRECTIONS
     AND REHABILITATION, et al.,

14

15   Defendants.   FINDINGS AND RECOMMENDATIONS

16   _____/

17   Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to

18   42 U.S.C. § 1983. On September 10, 2010 defendant Maciel filed a motion for summary

19   judgment. On January 13, 2011, plaintiff was ordered to file an opposition or a statement of non-

20   opposition to the pending motion within thirty days. In the same order, plaintiff was informed

21   that failure to file an opposition would result in a recommendation that this action be dismissed

22   pursuant to Fed. R. Civ. P. 41(b). The thirty day period has now expired and plaintiff has not

23   responded to the court's order.

24   For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be

25   dismissed pursuant to Federal Rule of Civil Procedure 41(b) due to plaintiff's failure to prosecute

26   this action and his failure to comply with the court's orders.

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1   These findings and recommendations are submitted to the United States District

2   Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen

3   days after being served with these findings and recommendations, any party may file written

4   objections with the court and serve a copy on all parties. Such a document should be captioned

5   "Objections to Magistrate Judge's Findings and Recommendations." Any response to the

6   objections shall be filed and served within seven days after service of the objections. The parties

7   are advised that failure to file objections within the specified time may waive the right to appeal

8   the District Court's order. <u>Martinez v. Ylst</u>, 951 F.2d 1153 (9th Cir. 1991).

9   DATED: February 28, 2011.

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      DALE A. DROZD

12   UNITED STATES MAGISTRATE JUDGE

13   DAD:kc
      lead2123.41

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