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

SHAKA SENEGAL MUHAMMAD,

Plaintiff,

No. 2:09-cv-0582 KJN P

vs.

D. K. SISTO, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel in this civil rights action filed pursuant to 42 U.S.C. § 1983. On April 25, 2011, defendants filed and served a motion to dismiss plaintiff’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).<sup>1</sup> (Dkt. No. 18.) Plaintiff has not opposed the motion. Pursuant to this court’s Local Rules, plaintiff was required to file and serve a written opposition or statement of non-opposition to defendants’ motion within twenty-one days after it was filed, or by May 16, 2011. See E.D. Cal. L.R. (“Local Rule”) 230(l).

The court further notes that defendants subsequently filed, on June 2, 2011, a motion to have plaintiff declared a vexatious litigant. (Dkt. No. 20.) The filing deadline for

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<sup>1</sup> This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 plaintiff's opposition or statement of opposition thereto is June 23, 2011.

2           Local Rule 230(l) provides that: "Failure of the responding party to file written  
3 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to  
4 the granting of the motion . . . ." Pursuant to the court's order filed January 25, 2011 order,  
5 plaintiff was advised of the requirements for filing an opposition to a motion and informed that  
6 failure to oppose such motion may be deemed a waiver of opposition thereto.

7           Local Rule 110 provides that failure to comply with the Local Rules "may be  
8 grounds for imposition of any and all sanctions authorized by statute or Rule or within the  
9 inherent power of the Court." In the order filed January 25, 2011 order, plaintiff was also advised  
10 that failure to comply with the Local Rules may result in a recommendation that this action be  
11 dismissed.

12           Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

13           **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute  
14 or to comply with these rules or a court order, a defendant may  
15 move to dismiss the action or any claim against it. Unless the  
16 dismissal order states otherwise, a dismissal under this subdivision  
(b) and any dismissal not under this rule--except one for lack of  
jurisdiction, improper venue, or failure to join a party under Rule  
19--operates as an adjudication on the merits.

17 Fed. R. Civ. P. 41(b).

18           Good cause appearing, IT IS HEREBY ORDERED that, within fourteen days  
19 after the filing date of this order, plaintiff shall file an opposition, if any, to defendants' motion to  
20 dismiss (Dkt. No. 18). Failure to file such opposition will be deemed as plaintiff's consent to  
21 have the: (a) pending motion granted; (b) action dismissed for lack of prosecution; and (c) action  
22 dismissed based on plaintiff's failure to comply with these rules and a court order. Such failure  
23 shall result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil  
24 Procedure 41(b). In addition, plaintiff is hereby informed that the same principles will be applied

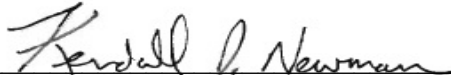
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1 to plaintiff's failure to timely respond to defendants' motion to have plaintiff declared a  
2 vexatious litigant (Dkt. No. 20), without further warning by this court.

3 SO ORDERED.

4 DATED: June 7, 2011

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7 KENDALL J. NEWMAN  
8 UNITED STATES MAGISTRATE JUDGE

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