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

JIMMIE STEPHEN,

Plaintiff,

No. CIV-S-09-1516 MCE EFB (TEMP) P

vs.

F. ZHANG, et al.

Defendants.

ORDER

\_\_\_\_\_ /  
On January 4, 2011, defendants filed a motion to dismiss. Plaintiff has not opposed the motion. Local Rule 230(c) requires a party to file an opposition or statement of non-opposition in response to a motion. Failure to oppose a motion to dismiss may be deemed a failure by plaintiff to prosecute his case and result in dismissal under Federal Rule of Civil Procedure 41(b). Therefore plaintiff will have a final opportunity in which to file an opposition.

Plaintiff has submitted a motion to disqualify the magistrate judge who was initially assigned to this case. Because the magistrate judge has since been elevated to the position of district judge, this case has been reassigned to a different magistrate judge. The motion to disqualify is therefore moot.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Within thirty days of the date of this order, plaintiff shall file an opposition to the  
3 motion to dismiss or a statement of non-opposition. Failure to comply with this order will result  
4 in dismissal of this action be pursuant Federal Rule of Civil Procedure 41(b).

5 2. The motion to disqualify the previously-assigned magistrate judge (Docket No. 71) is  
6 denied as moot.

7 DATED: April 21, 2011.

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9 EDMUND F. BRENNAN  
10 UNITED STATES MAGISTRATE JUDGE  
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