

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

EARL WARNER,

Plaintiff,

No. CIV S-09-1568 KJM EFB P

vs.

MATTHEW L. CATE, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On February 21, 2012, defendants filed a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Dckt. No. 53. Plaintiff has not opposed the motion.

In cases in which one party is incarcerated and proceeding without counsel, motions ordinarily are submitted on the record without oral argument. Local Rule 230(1). "Opposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21), days after the date of service of the motion." *Id.* A responding party's failure "to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions." *Id.*

////

1 Furthermore, a party's failure to comply with any order or with the Local Rules "may be
2 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." Local Rule 110. The court may recommend that an
4 action be dismissed with or without prejudice, as appropriate, if a party disobeys an order or the
5 Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not
6 abuse discretion in dismissing *pro se* plaintiff's complaint for failing to obey an order to re-file
7 an amended complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856
8 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for *pro se* plaintiff's failure to comply with local
9 rule regarding notice of change of address affirmed).

10 On January 4, 2011, the court advised plaintiff of the requirements for filing an
11 opposition to the motion, that failure to oppose such a motion may be deemed a waiver of
12 opposition to the motion, and that failure to comply with the Local Rules may result in a
13 recommendation of dismissal.

14 Accordingly, it is hereby ORDERED that, within twenty-one days of the date of this
15 order, plaintiff shall either file either an opposition to the motion for summary judgment or a
16 statement of non-opposition. Failure to comply with this order will result in a recommendation
17 that this action be dismissed without prejudice.

18 DATED: April 19, 2012.

19 
20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26