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

TONY MABRY,

Plaintiff,

No. CIV S-09-1581 WBS GGH P

vs.

ROBERT SANTOS,

Defendant.

FINDINGS & RECOMMENDATIONS

_____/

On June 25, 2010, defendant filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Plaintiff has not opposed the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” On February 17, 2010, plaintiff was advised of the requirements for filing an opposition to a motion to dismiss and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

Accordingly, plaintiff’s failure to oppose should be deemed a waiver of opposition to the granting of the motion. In the alternative, the court has reviewed the motion and finds that it has merit on the various grounds raised, including, inter alia, an alleged failure to satisfactorily comply with Fed. R. Civ. P. 8(a)(2) in the form of providing a short and plain

1 statement showing plaintiff's entitlement to relief. IT IS HEREBY RECOMMENDED that:

- 2 1. Defendants' June 25, 2010, motion to dismiss be granted; and
- 3 2. This action be dismissed.

4 These findings and recommendations are submitted to the United States District
5 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
6 days after being served with these findings and recommendations, any party may file written
7 objections with the court and serve a copy on all parties. Such a document should be captioned
8 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
9 shall be served and filed within fourteen days after service of the objections. The parties are
10 advised that failure to file objections within the specified time may waive the right to appeal the
11 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

12 DATED: September 1, 2010

13 /s/ Gregory G. Hollows

14 UNITED STATES MAGISTRATE JUDGE

15 mabr1581.46