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

COREY D. SPECK,

Plaintiff,

No. 2:09-cv-3440 TLN EFB P

vs.

SHASTA COUNTY SHERIFF  
DEPARTMENT, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On April 1, 2013, defendants Kropholler and McQuillan filed a motion to dismiss for failure to state a claim upon which relief may be granted. *See* Fed. R. Civ. P. 12(b)(6). Plaintiff has not filed an opposition or a statement of no opposition to the motion. On April 29, 2013, the court gave plaintiff twenty-one days to file an opposition or statement of non-opposition and warned him that failure to do so could result in a recommendation that this action be dismissed. *See* Fed. R. Civ. P. 41(b). The time for acting has passed and plaintiff has not filed an opposition, a statement of no opposition, or otherwise responded to the court’s order.

Plaintiff has been warned that he must file a response to defendants’ motion. Plaintiff has disobeyed this court’s orders and failed to prosecute this action. It appears that plaintiff has abandoned the case. The appropriate action is dismissal without prejudice.

1           Accordingly, it is hereby RECOMMENDED that this action be dismissed without  
2 prejudice. *See* Fed. R. Civ. P. 41(b); E.D. Cal. Local Rule 110, 183(b).

3           These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
5 after being served with these findings and recommendations, any party may file written  
6 objections with the court and serve a copy on all parties. Such a document should be captioned  
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
8 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

10 Dated: May 21, 2013.

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12 EDMUND F. BRENNAN  
13 UNITED STATES MAGISTRATE JUDGE  
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