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

JERRY W. BAKER,

Plaintiff,

No. 2:10-cv-0640 LKK EFB P

vs.

HIGH DESERT STATE PRISON, et al.,

Defendants.

FINDINGS AND RECOMMENDATION

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Plaintiff is a former county inmate proceeding without counsel in an action brought under 42 U.S.C. § 1983. On August 23, 2012, defendants filed a motion for summary judgment and informed plaintiff of the requirements for opposing a motion for summary judgment. *See* Fed. R. Civ. P. 56; *Rand v. Rowland*, 154 F.3d 952, 962-63 (9th Cir. 1998). Plaintiff has not filed an opposition or a statement of no opposition to the motion. On September 26, 2012, 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.

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

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

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

13 Dated: October 22, 2012.

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15 EDMUND F. BRENNAN
16 UNITED STATES MAGISTRATE JUDGE
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