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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DESHAWN MYRICK,
Plaintiff,
v.
IVES, et al.,
Defendants.

No. 2:10-cv-01085 KJM CKD (PC)

FINDINGS & RECOMMENDATIONS

On September 6, 2013, defendant Shank, the sole remaining defendant in this action, filed a motion to dismiss. ECF No. 43. On October 10, 2013, the court advised the plaintiff to file an opposition or statement of non-opposition within thirty days. ECF No. 46. Thirty days have now passed and plaintiff has not responded to the court’s order.

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 21, 2013, 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. ECF No. 38.

Accordingly, plaintiff’s failure to oppose should be deemed a waiver of opposition to the granting of the motion. IT IS HEREBY RECOMMENDED that:


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1. Defendant’s September 6, 2013, motion to dismiss (ECF No. 43) be granted; and
2. This action be dismissed.

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

Dated: November 21, 2013



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

myri1085.46dm