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

KIRK STEVENSON,

Plaintiff,

No. CIV S-10-1902 EFB (TEMP) P

vs.

R. KADEVARI, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

On November 30, 2010, defendant Glover, the sole defendant in this action, filed a motion to dismiss for failure to exhaust administrative remedies. *See* Fed. R. Civ. P. 12(e); 42 U.S.C. § 1997. Plaintiff has not filed an opposition or a statement of no opposition to the motion to dismiss.

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 with the Clerk by the responding

1 party not more than eighteen (18) days, plus three (3) days for mailing or electronic service, after
2 the date of service of the motion.” *Id.* A responding party’s failure “to file written opposition or
3 to file a statement of no opposition may be deemed a waiver of any opposition to the granting of
4 the motion and may result in the imposition of sanctions.” *Id.* Furthermore, a party’s failure to
5 comply with any order or with the Local Rules “may be grounds for imposition of any and all
6 sanctions authorized by statute or Rule or within the inherent power of the Court.” Local Rule
7 110. The court may recommend that an action be dismissed with or without prejudice, as
8 appropriate, if a party disobeys an order or the Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d
9 1258, 1263 (9th Cir. 1992) (district court did not abuse discretion in dismissing *pro se* plaintiff’s
10 complaint for failing to obey an order to re-file an amended complaint to comply with Federal
11 Rules of Civil Procedure); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for
12 *pro se* plaintiff’s failure to comply with local rule regarding notice of change of address
13 affirmed).

14 On September 28, 2010, the court advised plaintiff of the requirements for filing an
15 opposition to the motion, that failure to oppose such a motion may be deemed a waiver of
16 opposition to the motion and that failure to comply with the Local Rules may result in dismissal.

17 Accordingly, it is hereby ORDERED that, within twenty-one days of the date of this
18 order, plaintiff shall file either an opposition to the motion or a statement of no opposition.
19 Failure to comply with this order may result in the imposition of sanctions or dismissal of the
20 action.

21 DATED: January 18, 2011.

22 
23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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