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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLEY McMURTRY,  
Plaintiff,  
v.  
HU, et al.,  
Defendants.

No. 2:12-cv-00103 JAM DAD P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On August 21, 2015, defendants filed and served a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. (ECF No. 52.)

Pursuant to the Local Rules of this court, plaintiff's opposition or statement of non-opposition was due within 21 days after service of the defendants' motion for summary judgment. See Local Rule 230(1). More than 21 days have passed, and plaintiff has not opposed the motion or otherwise communicated with the court.

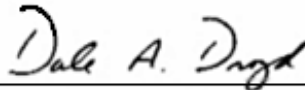
On April 1, 2013, plaintiff was advised of the requirements for filing an opposition to a motion for summary judgment, and informed that his failure to oppose such motion may be deemed a waiver of opposition thereto. (See ECF No. 18.) See Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998) (en banc), and Klinge v. Eikenberry, 849 F.2d 409, 411-12 (9th Cir. 1988).

1 The order filed April 1, 2013, also advised plaintiff that failure to comply with the Local Rules  
2 may result in a recommendation that this action be dismissed.

3 Local Rule 230(l) provides that failure to timely respond to a motion may be deemed a  
4 waiver of opposition. See Local Rule 230(l).<sup>1</sup> In addition, Local Rule 110 provides that failure to  
5 comply with the Local Rules or any order of this court “may be grounds for imposition of any and  
6 all sanctions authorized by statute or Rule or within the inherent power of the Court.” Finally,  
7 Rule 41(b), Federal Rules of Civil Procedure, authorizes the involuntary dismissal of an action  
8 due to a plaintiff’s failure to prosecute, or to comply with the Federal Rules or a court order.

9 Good cause appearing, IT IS HEREBY ORDERED that, within 30 days after the filing  
10 date of this order, plaintiff shall file and serve an opposition, or statement of no opposition, to the  
11 pending motion for summary judgment. Failure to timely file an opposition, or statement of no  
12 opposition, will be deemed as plaintiff’s consent to have this action dismissed for lack of  
13 prosecution, failure to abide by a court order, and failure to comply with the Local Rules and  
14 Federal Rules of Civil Procedure. Accordingly, plaintiff is forewarned that his failure to file the  
15 documents required by this order will result in a recommendation that this action be dismissed  
16 without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

17 Dated: October 29, 2015

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19 \_\_\_\_\_  
20 DALE A. DROZD  
21 UNITED STATES MAGISTRATE JUDGE

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23 DAD:10  
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26 <sup>1</sup> Local Rule 230(l) provides in pertinent part:

27 Opposition, if any, to the granting of the motion shall be served and  
28 filed by the responding party not more than twenty-one (21), days  
after the date of service of the motion. A responding party who has  
no opposition to the granting of the motion shall serve and file a  
statement to that effect, specifically designating the motion in  
question. Failure of the responding party to file an opposition or to  
file a statement of no opposition may be deemed a waiver of any  
opposition to the granting of the motion and may result in the  
imposition of sanctions.