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

10 STEVEN R. SMITH,

11 Petitioner,

No. 2:13-cv-0605 KJN P

12 vs.

13 MARION SPEARMAN, Warden,

14 Respondent.

ORDER

15 _____/
16 Both parties consented to proceed before the undersigned for all purposes. See 28
17 U.S.C. § 636(c). On April 17, 2013, respondent filed a motion to dismiss the petition based on
18 petitioner's alleged failure to exhaust state remedies. Petitioner has not opposed the motion.

19 Local Rule 230(l) provides in part: "Failure of the responding party to file written
20 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to
21 the granting of the motion" Id. On April 1, 2013, petitioner was informed that his
22 opposition or statement of non-opposition to a motion shall be filed within thirty days after
23 service of the motion. (ECF No. 8 at 2.)

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1 Local Rule 110 provides that failure to comply with the Local Rules “may be
2 grounds for imposition of any and all sanctions authorized by statute or Rule or within the
3 inherent power of the Court.” Id.

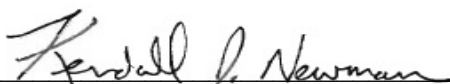
4 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

5 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute
6 or to comply with these rules or a court order, a defendant may
7 move to dismiss the action or any claim against it. Unless the
8 dismissal order states otherwise, a dismissal under this subdivision
9 (b) and any dismissal not under this rule--except one for lack of
jurisdiction, improper venue, or failure to join a party under Rule
19--operates as an adjudication on the merits.

9 Id.

10 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days of the
11 date of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. Failure to file
12 an opposition will be deemed as consent to have the: (a) pending motion granted; (b) action
13 dismissed for lack of prosecution; and (c) action dismissed based on plaintiff’s failure to comply
14 with these rules and a court order. Such failure shall result in a recommendation that this action
15 be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

16 DATED: May 20, 2013

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19 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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