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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ROBERT BENYAMINI,	No. 2:13-cv-735-KJM-EFB P
12	Plaintiff,	
13	v.	FINDINGS AND RECOMMENDATIONS
14	M. SWETT, et al.,	
15	Defendants.	
16		
17	Plaintiff is a former state prisoner proceeding without counsel in an action brought under	
18	42 U.S.C. § 1983. Defendants have filed a motion for summary judgment. ECF No. 98. Plaintiff	
19	failed to file a timely opposition and on November 9, 2017, the court directed plaintiff to submit	
20	his opposition within twenty-one days. ECF No. 103. Plaintiff was warned that his failure to file	
21	an opposition could result in the dismissal of this action for failure to prosecute. ¹ <i>Id.</i> ; <i>see, e.g.</i>	
22	Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local	
23	rule). The twenty-one day period has now elapsed and plaintiff has not filed an opposition or any	
24	other filing with the court.	
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26	¹ Local Rule 183, governing persons appearing in pro se, provides that failure to comply with the Federal Rules of Civil Procedure and Local Rules may be grounds for dismissal,	
27	judgment by default, or other appropriate san	ctions. Additionally, Local Rule 110 provides that

failure to comply with the Local Rules "may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court."

1	Defense counsel has filed a declaration sating that counsel received a "motion" from	
2	plaintiff seeking indefinite continuance of this litigation which has not been filed with the court.	
3	ECF No. 104 at 2. Plaintiff reportedly alleges in that unfiled motion that his father has obtained a	
4	restraining order against him and, as a consequence, plaintiff is effectively homeless. Id. The	
5	restraining order will be in effect until 2020. Id. at 22.	
6	Plaintiff has not actually sought a stay from the court ² and, in any event, it is unclear how	
7	a suitable stay could be crafted in light of his present circumstances. Plaintiff has not provided	
8	any indication as to when he will be able to litigate effectively again, and stays should generally	
9	be "of short, or at least reasonable, duration." See Dependable Highway Express, Inc. v.	
10	Navigators Ins. Co., 498 F.3d 1059, 1067 (9th Cir. 2007).	
11	For the reasons stated above, it is hereby RECOMMENDED that this action be	
12	DISMISSED for failure to prosecute. Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.	
13	These findings and recommendations are submitted to the United States District Judge	
14	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days	
15	after being served with these findings and recommendations, any party may file written	
16	objections with the court and serve a copy on all parties. Such a document should be captioned	
17	"Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections	
18	within the specified time may waive the right to appeal the District Court's order. <i>Turner v</i> .	
19	Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).	
20	DATED: December 12, 2017.	
21	Zemund toblem	
22	EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE	
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26	² The court recognizes and takes judicial notice of the fact that plaintiff has sought a stay	
27	in a separate case before this district. <i>See Benyamini v. Terry</i> , 2:15-cv-2615-TLN-EFB, ECF No. 39. Plaintiff has not filed a similar motion in this case, however. Additionally, the court has	
28	recommended denying the motion for stay in Terry. Id., ECF No. 40.	
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