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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NAM BA NGUYEN,  
  
Plaintiff,  
  
v.  
  
CALIFORNIA PRISON HEALTH  
SERVICE, et al.,  
  
Defendants.

No. 2:13-cv-963-MCE-EFB P

ORDER

Plaintiff is a former state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983.<sup>1</sup> On September 6, 2016, defendant Elam filed a motion to dismiss on the ground that the second amended complaint fails to state a claim upon which relief can be granted. *See* Fed. R. Civ. P. 12(b)(6). On September 15, 2016, the court extended plaintiff’s deadline to oppose the motion to December 27, 2016.<sup>2</sup> ECF No. 55. Plaintiff has not filed an opposition or a statement of non-opposition to defendant’s motion.

Pursuant to Local Rule 230(l), which applies to defendant’s motion to dismiss (*see* ECF No. 19, ¶ 9), an “[o]pposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21), days after the date of service of the motion.” *Id.*

<sup>1</sup> According to defendants, plaintiff was paroled on September 8, 2016, and subsequently taken into custody of U.S. Immigration and Customs Enforcement. *See* ECF No. 52.

<sup>2</sup> Plaintiff’s October 3, 2016 request for an extension of time (ECF No. 57) is therefore denied as moot.

1 A responding party's failure "to file an opposition or to file a statement of no opposition may be  
2 deemed a waiver of any opposition to the granting of the motion and may result in the imposition  
3 of sanctions." *Id.*

4 Furthermore, a party's failure to comply with any order or with the Local Rules "may be  
5 grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or  
6 within the inherent power of the Court." Local Rule 110. The court may recommend that an  
7 action be dismissed with or without prejudice, as appropriate, if a party disobeys an order or the  
8 Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not  
9 abuse discretion in dismissing pro se plaintiff's complaint for failing to obey an order to re-file an  
10 amended complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856 F.2d  
11 1439, 1440-41 (9th Cir. 1988) (dismissal for pro se plaintiff's failure to comply with local rule  
12 regarding notice of change of address affirmed).

13 Accordingly, it is hereby ORDERED that:

- 14 1. Within 21 days of the date of this order, plaintiff shall file either an opposition to the  
15 motion to dismiss or a statement of no opposition. Failure to comply with this order  
16 may result in a recommendation that this action be dismissed without prejudice.
- 17 2. Plaintiff's request for an extension of time (ECF No. 57) is denied as moot.

18 DATED: January 10, 2017.

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20 EDMUND F. BRENNAN  
21 UNITED STATES MAGISTRATE JUDGE  
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