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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,

Plaintiff,

v.

JENNINGS, et al.,

Defendant.

No. 2:13-cv-1134 TLN DB P

ORDER

Plaintiff is a state prisoner proceeding with this civil rights action brought pursuant to 42 U.S.C. § 1983. On January 21, 2016, defendants filed a motion to revoke plaintiff’s in forma pauperis status. When plaintiff did not oppose that motion, the court ordered this action dismissed without prejudice. (ECF Nos. 33, 34.) However, in June, plaintiff filed a document explaining that he had been hospitalized during part of the period in which he was required to respond to defendants’ motion. (ECF No. 36.) In response, on July 11, 2016, the court revoked the order dismissing this case, re-opened it, and provided plaintiff a 60-day period to file any opposition to the motion to revoke plaintiff’s in forma pauperis status. (ECF No. 37.) That 60 day period has now expired.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion . . . .” Id. On November 12, 2015, plaintiff was advised of the

1 requirements for filing an opposition to a motion and that failure to oppose such a motion may be  
2 deemed a waiver of opposition to the motion. (ECF No. 21.)

3 Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for  
4 imposition of any and all sanctions authorized by statute or Rule or within the inherent power of  
5 the Court.” Id. In the order filed November 12, plaintiff was also advised that failure to comply  
6 with the Local Rules may result in a recommendation that the action be dismissed.

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

8 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or  
9 to comply with these rules or a court order, a defendant may move  
10 to dismiss the action or any claim against it. Unless the dismissal  
11 order states otherwise, a dismissal under this subdivision (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.

12 Id.

13 Good cause appearing, IT IS HEREBY ORDERED that, within twenty days from the date  
14 of this order, plaintiff shall file an opposition, if any, to the motion to revoke in forma pauperis  
15 status. Failure to file an opposition will be deemed as consent to have the: (a) action dismissed  
16 for lack of prosecution; and (b) action dismissed based on plaintiff’s failure to comply with these  
17 rules and a court order. Said failure shall result in a recommendation that this action be dismissed  
18 pursuant to Federal Rule of Civil Procedure 41(b).

19 Dated: September 22, 2016

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22 DEBORAH BARNES  
23 UNITED STATES MAGISTRATE JUDGE  
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