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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DESHAWN MALONE,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

No. 2:14-CV-2096 DAD P

ORDER

On June 1, 2015, defendants filed a motion to revoke plaintiff’s in forma pauperis status and dismiss this action. Local Rule 230(l) requires a party to file an opposition or statement of non-opposition within twenty-one days after service of a motion. More than twenty-one days have passed since defendants filed their motion, but plaintiff has not opposed the motion or otherwise communicated with the court.

Federal Rule of Civil Procedure 41(b) authorizes dismissal of a case for a party’s failure to prosecute his claims or for failure to comply with a court order.¹ Local Rule 110 states that “[f]ailure of . . . a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or

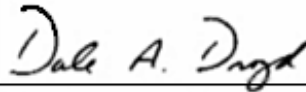
¹ Rule 12 of the Rules Governing Section 2254 Cases allows for the application of the Federal Rules of Civil Procedure to all such cases “to the extent that they are not inconsistent with any statutory provision of these rules[.]”

1 within the inherent power of the Court.” Furthermore, Local Rule 230(l) states that “[f]ailure of
2 the responding party to file an opposition or to file a statement of no opposition may be deemed a
3 waiver of any opposition to the granting of the motion and may result in the imposition of
4 sanctions.” The Local Rule thus codifies a longstanding practice: “[c]ourts have consistently
5 exercised their discretion to grant motions . . . on the basis that, in failing to respond, the opposing
6 party has consented to such action by the court.” Gwaduri v. I.N.S., 362 F.3d 1144, 1146 n.3 (9th
7 Cir. 2004).

8 The will grant plaintiff thirty days from the date of this order in which to file an
9 opposition or statement of non-opposition in response to defendants’ motion. Failure to comply
10 with this order will result in a recommendation that this action be dismissed pursuant to Federal
11 Rule of Civil Procedure 41(b) and Local Rule 110.

12 Accordingly, IT IS HEREBY ORDERED that within thirty days of the date of this order,
13 plaintiff shall file an opposition to defendants’ pending motion (ECF No. 18) or a statement of
14 non-opposition. Failure to comply with this order will result in a recommendation that this action
15 be dismissed pursuant to Federal Rule of Civil Procedure 41(b) and Local Rule 110.

16 Dated: August 17, 2015

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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