

1 On September 22, 2017, defendants Frink and Moore filed a motion to dismiss this action
2 for lack of personal jurisdiction, improper venue and/or because filed after expiration of
3 Mississippi's statute of limitations. See ECF No. 22. On January 17, 2018, defendant Phillips
4 joined in the motion. See ECF No. 26. Defendant Mays reportedly left his employment with
5 TCCF and has not yet been located despite several efforts by the United States Marshal. See ECF
6 Nos. 19, 24.

7 Under the Local Rules of this court, plaintiff was required to file and serve an opposition
8 or statement of no opposition to defendants' motion within twenty-one days after he was served
9 with the motion. See Local Rule 230(l). That deadline has long since passed but plaintiff has not
10 responded to the motion or communicated with the court in any way.

11 Local Rule 230(l) further provides that "[f]ailure of the responding party to file written
12 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to
13 the granting of the motion." Additionally, in the undersigned's order filed July 26, 2017, plaintiff
14 was advised that failure to comply with the Local Rules may result in a recommendation that this
15 action be dismissed. See ECF No. 17 at 3. See also Local Rule 110 (failure to comply with the
16 Local Rules "may be grounds for imposition of any and all sanctions authorized by statute or
17 Rule or within the inherent power of the Court"); Fed. R. Civ. P. Rule 41(b) (authorizing
18 involuntary dismissal of an action "if the plaintiff fails to prosecute or to comply with these rules
19 or a court order"). Pursuant to this legal authority and due to plaintiff's failure to timely file an
20 opposition or statement of no opposition to defendants' motion, the undersigned will recommend
21 that this action be dismissed without prejudice.

22 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a
23 district judge to this action.

24 Additionally, IT IS HEREBY RECOMMENDED that this action be dismissed without
25 prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

26 These findings and recommendations are submitted to the United States District Judge
27 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
28 days after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Such a document should be captioned
2 “Objections to Magistrate Judge’s Findings and Recommendations.” The parties are advised that
3 failure to file objections within the specified time may waive the right to appeal the District
4 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 DATED: June 26, 2018.

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8 ALLISON CLAIRE
9 UNITED STATES MAGISTRATE JUDGE
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