I

1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
10		
11	ERNESTO BERRERA,	No. 2:15-cv-0610-KJM-EFB P
12	Plaintiff,	
13	v.	ORDER
14	J. SIVYER, et al.,	
15	Defendants.	
16		
17	Plaintiff is a state prisoner currently proceeding without counsel in an action brought	
18	under 42 U.S.C. § 1983. On August 2, 2018, defendants filed a motion for summary judgment	
19	and informed plaintiff of the requirements for opposing a motion for summary judgment. See	
20	Fed. R. Civ. P. 56; Rand v. Rowland, 154 F.3d 952, 962-63 (9th Cir. 1998). Plaintiff has not filed	
21	an opposition or a statement of no opposition to the motion.	
22	In cases in which one party is incarcerated and proceeding without counsel, motions	
23	ordinarily are submitted on the record without oral argument. E.D. Cal. Local Rule 230(<i>l</i>).	
24	"Opposition, if any, to the granting of the motion shall be served and filed by the responding	
25	party not more than twenty-one (21), days after the date of service of the motion." Id. A	
26	responding party's failure "to file an opposition or to file a statement of no opposition may be	
27	deemed a waiver of any opposition to the granting of the motion and may result in the imposition	
28	of sanctions." Id. Furthermore, a party's failure to comply with any order or with the Local	
		1

1	Rules "may be grounds for imposition by the Court of any and all sanctions authorized by statute	
2	or Rule or within the inherent power of the Court." E.D. Cal. Local Rule 110. The court may	
3	recommend that an action be dismissed with or without prejudice, as appropriate, if a party	
4	disobeys an order or the Local Rules. See Ferdik v. Bonzelet, 963 F.2d 1258, 1263 (9th Cir.	
5	1992) (district court did not abuse discretion in dismissing pro se plaintiff's complaint for failing	
6	to obey an order to re-file an amended complaint to comply with Federal Rules of Civil	
7	Procedure); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for pro se	
8	plaintiff's failure to comply with local rule regarding notice of change of address affirmed).	
9	On April 13, 2016, the court advised plaintiff of the requirements for filing an opposition	
10	to the motion, that failure to oppose such a motion may be deemed a waiver of opposition to the	
11	motion and that failure to comply with the Local Rules may result in dismissal.	
12	Accordingly, it is hereby ORDERED that, within 21 days of the date of this order,	
13	plaintiff shall file either an opposition to the motion or a statement of no opposition. Failure to	
14	comply with this order may result in a recommendation that this action be dismissed without	
15	prejudice.	
16	DATED: October 2, 2018.	
17	EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE	
18	UNITED STATES MADISTRATE JUDGE	
19		
20		
21		
22		
23		
24		
25		
26		
27		
28	_	
	2	