Doc. 13 (PC) Brown v. Godwin 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 LANCE L. BROWN, No. 2:15-cv-01300 WBS AC P 12 Plaintiff. 13 FINDINGS AND RECOMMENDATIONS v. 14 R. GODWIN, 15 Defendant. 16 17 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 18 U.S.C. § 1983. On May 3, 2017, the court dismissed plaintiff's complaint for failure to state a 19 cognizable claim and gave him leave to amend within thirty days. ECF No. 10. More than thirty 20 days have now passed and plaintiff has not filed an amended complaint or a motion for extension 21 of time to do so. 22 The Local Rules provide that "[f]ailure of counsel or of a party to comply with . . . any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . 23 within the inherent power of the Court." Local Rule 110. The Ninth Circuit has held that 24 25 "[d]istrict courts have inherent power to control their dockets" and that in "the exercise of that 26 power they may impose sanctions including, where appropriate, default or dismissal." Thompson 27 v. Housing Authority of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). This action cannot 28 move forward absent the filing of an amended complaint. Accordingly, dismissal without 1

prejudice is therefore the most appropriate sanction.

It is therefore RECOMMENDED that this action be dismissed without prejudice due to plaintiff's failure to comply with a court order and failure to prosecute.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within twenty one days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. <u>Turner v. Duncan</u>, 158 F.3d 449, 455 (9th Cir. 1998); <u>Martinez v. Ylst</u>, 951 F.2d 1153 (9th Cir. 1991). DATED: July 19, 2017

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE