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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JUAN ELLINBERG,
Plaintiff,
v.
F. FOULK, et al.,
Defendants.

No. 2:15-cv-1458 JAM AC P


FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with this civil rights action filed pursuant to 42 U.S.C. § 1983. On November 15, 2016, sole remaining defendant Dr. Rosca, M.D., filed and served plaintiff with a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. See ECF No. 18. Plaintiff did not respond to the motion within twenty-one days, as required by Local Rule 230(l). On December 30, 2016, the court granted plaintiff additional time to respond to defendant’s motion, and informed plaintiff that, if he failed to respond, this action would be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). See ECF No. 19. The extended time for plaintiff’s response has now expired, without any response from plaintiff.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, any party may file written
4 objections with the court and serve a copy on all parties. Such a document should be captioned
5 “Objections to Magistrate Judge’s Findings and Recommendations.” The parties are advised that
6 failure to file objections within the specified time may waive the right to appeal the District
7 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

8 DATED: February 1, 2017

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11 ALLISON CLAIRE
12 UNITED STATES MAGISTRATE JUDGE
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