UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE JARDINE,

Plaintiff,

v.

ORDER

DR. JACK ST. CLAIR,

Defendant.

Plaintiff is a former state prisoner proceeding pro se with this civil rights action. A hearing on defendant's motion for summary judgment is scheduled before the undersigned on Wednesday, November 14, 2018. <u>See ECF No. 55</u>. Plaintiff's opposition to defendant's motion was due Friday, October 19, 2018. <u>See ECF No. 54</u>. However, plaintiff has not filed an opposition.

This order provides plaintiff one final opportunity to respond to defendant's motion and informs plaintiff that failure to so respond will result in the undersigned's recommendation that this action be dismissed.

Plaintiff's response to defendant's motion is required by the court's orders, ECF Nos. 54, 55, and by the Federal Rules of Civil Procedure and Local Rules of this court. Local Rule 230(1) provides: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion[.]" Local

1	Rule 110 provides that failure to comply with the Local Rules "may be grounds for imposition of
2	any and all sanctions authorized by statute or Rule or within the inherent power of the Court."
3	Rule 41(b), Federal Rules of Civil Procedure, provides:
4	Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to
5	comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order
6	states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule – except one for lack of jurisdiction,
7	improper venue, or failure to join a party under Rule 19 – operates as an adjudication on the merits.
8	Fed. R. Civ. P. 41(b).
9	Pursuant to this authority, and good cause appearing, IT IS HEREBY ORDERED that:
10	1. The hearing on defendant's motion for summary judgment is moved to Wednesday,
11	December 12, 2018; the hearing scheduled for November 14, 2018 is vacated.
12	2. Plaintiff shall, on or before Friday, November 16, 2018, file and serve an opposition to
13	defendant's motion for summary judgment, OR file and serve a statement of non-opposition to
14	defendant's motion.
15	3. Defendant may file and serve a reply on or before Friday, November 30, 2018.
16	4. No further extensions of time will be granted.
17	5. Should plaintiff fail to timely file and serve an opposition to defendant's motion, the
18	undersigned will recommend that this action be dismissed without prejudice pursuant to Federal
19	Rule of Civil Procedure 41(b), for failure to prosecute.
20	IT IS SO ORDERED.
21	DATED: October 31, 2018
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23	ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE
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