

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE JARDINE,

 Plaintiff,

 v.

DR. JACK ST. CLAIR,

 Defendant.

No. 2:15-cv-1749 MCE AC P

FINDINGS AND RECOMMENDATIONS

Plaintiff Jardine is a former state prisoner proceeding pro se with this civil rights action against sole defendant St. Clair. On August 30, 2018, defendant filed a motion for summary judgment. ECF No. 52. Plaintiff requested several extensions of time within which to file and serve an opposition to defendant’s motion. By order filed November 19, 2018, the undersigned extended the deadline to November 30, 2018, according plaintiff a total of ninety (90) days to respond. ECF No. 62. The court informed plaintiff: “Failure of plaintiff to timely file an opposition will result in a recommendation for dismissal of this action without prejudice. No further extensions of time or other accommodations will be granted in this case.” Id. at 1.

The November 30, 2018 deadline has passed but plaintiff has not responded to the pending motion or otherwise communicated with the court.

The Federal Rules of Civil Procedure provide for dismissal of an action for failure to prosecute or to comply with the rules or orders of the court. See Fed. R. Civ. P. 41(b); see also

1 Local Rule 110 (failure to comply with order of court may be grounds for sanctions); Local Rule
2 230(1) (failure to file an opposition to a motion may be deemed a waiver of opposition thereto and
3 grounds for sanctions). Due to plaintiff's failure to comply with the orders of this court and his
4 apparent abandonment of this action, the undersigned will recommend that this action be
5 dismissed for failure to prosecute, pursuant to the Rule 41(b), Federal Rules of Civil Procedure.

6 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
7 prejudice under Rule 41(b), Federal Rules of Civil Procedure.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
10 days after being served with these findings and recommendations, any party may file written
11 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
12 Findings and Recommendations." Failure to file objections within the specified time may waive
13 the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: December 4, 2018

15 
16 ALLISON CLAIRE
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24
25
26
27
28