Doc. 59 (PC) Kent v. Rudas 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 RONALD KENT, No. 2:15-cv-1924 WBS AC P 12 Plaintiff. 13 FINDINGS AND RECOMMENDATIONS v. 14 U.C. DAVIS MEDICAL CENTER, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 18 U.S.C. § 1983. On February 9, 2018, defendants filed a motion for summary judgment. ECF No. 19 52. Rather than responding to the motion, plaintiff filed an amended complaint. ECF No. 54. 20 The amended complaint was stricken from the record and plaintiff was ordered to file an 21 opposition or a statement of non-opposition to the pending motion within twenty-one days. ECF 22 No. 56. In the same order, plaintiff was informed that failure to file an opposition would result in 23 a recommendation that this action be dismissed without prejudice for failure to prosecute. Id. 24 After he failed to respond, plaintiff was given another twenty-one-day extension and was again 25 warned that failure to respond would result in a recommendation that the case be dismissed. ECF 26 No. 58. The twenty-one-day period has now expired, and plaintiff has still not responded to the 27 motion for summary judgment. 28 //// 1

For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

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 fourteen 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." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: July 17, 2018

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE