1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ROBERT BENYAMINI, No. 2:15-cv-02615-TLN-EFB P 12 Plaintiff, 13 **ORDER** v. 14 TERRY, et al., 15 Defendants. 16 17 Plaintiff is a former state prisoner proceeding without counsel in an action brought under 18 42 U.S.C. § 1983. On March 15, 2017, defendants filed a motion to dismiss this action as barred 19 by the statute of limitations. See Fed. R. Civ. P. 12(b)(6). Plaintiff has not filed an opposition or 20 a statement of non-opposition to defendant's motion. 21 Although plaintiff is no longer in custody, Local Rule 230(1) continues to apply. That rule 22 provides that "opposition, if any, to the granting of the motion shall be served and filed by the 23 responding party not more than twenty-one (21), days after the date of service of the motion." 24 E.D. Cal. L.R. 230(1). A responding party's failure "to file an opposition or to file a statement of 25 no opposition may be deemed a waiver of any opposition to the granting of the motion and may 26 result in the imposition of sanctions." Id. 27 ///// 28 ///// 1

Furthermore, a party's failure to comply with any order or with the Local Rules "may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." E.D. Cal. L.R. 110. The court may recommend that an action be dismissed with or without prejudice, as appropriate, if a party disobeys an order or the Local Rules. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not abuse discretion in dismissing pro se plaintiff's complaint for failing to obey an order to re-file an amended complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for pro se plaintiff's failure to comply with local rule regarding notice of change of address affirmed).

Accordingly, it is hereby ORDERED that, within 21 days of the date of this order, plaintiff shall file either an opposition to the motion to dismiss or a statement of no opposition. Failure to comply with this order may result in a recommendation that this action be dismissed without prejudice.

DATED: April 20, 2017.

EDMUND F. BRENNAN

UNITED STATES MAGISTRATE JUDGE