

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

THURMAN LEROY SPENCER,
Plaintiff,
v.
TIMOTHY VIRGA, et al.,
Defendants.

No. 2:16-cv-0886-JAM-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On May 3, 2018, the court screened plaintiff’s amended complaint pursuant to 28 U.S.C. § 1915A. The court dismissed the complaint, explained the deficiencies therein and granted plaintiff thirty days in which file an amended complaint to cure the deficiencies. ECF No. 32. The order warned plaintiff that failure to comply could result in this action being dismissed. Despite several extensions of time, the time for acting has now passed and plaintiff has failed to file an amended complaint.

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. Local Rule 110. The court may dismiss an action with or

1 without prejudice, as appropriate, if a party disobeys an order or the Local Rules. *See Ferdik v.*
2 *Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not abuse discretion in
3 dismissing pro se plaintiff’s complaint for failing to obey an order to re-file an amended
4 complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856 F.2d 1439,
5 1440-41 (9th Cir. 1988) (dismissal for pro se plaintiff’s failure to comply with local rule
6 regarding notice of change of address affirmed).

7 Accordingly, it is hereby RECOMMENDED that this action be DISMISSED without
8 prejudice. Fed. R. Civ. P. 41(b); E. D. Cal. Local Rule 110.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
11 after being served with these findings and recommendations, any party may file written
12 objections with the court and serve a copy on all parties. Such a document should be captioned
13 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
14 objections shall be served and filed within fourteen days after service of the objections. The
15 parties are advised that failure to file objections within the specified time may waive the right to
16 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
17 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

18 Dated: September 26, 2018.

19 
20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26
27
28