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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WESLEY WILLIAM KESSLER,
Plaintiff,
v.
J. BORESZ,
Defendant.

No. 2:16-cv-1552-EFB P

ORDER AND 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 September 25, 2018, the court screened plaintiff’s amended complaint pursuant to 28 U.S.C. § 1915A. The court dismissed the amended complaint, explained the deficiencies therein and granted plaintiff thirty days in which file a second amended complaint to cure the deficiencies. ECF No. 12. The order warned plaintiff that failure to comply would result a recommendation that this action be dismissed. The time for acting has now passed and plaintiff has not filed an amended complaint, or otherwise responded to the court’s order.

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 ORDERED that the Clerk is directed to randomly assign a
8 United States District Judge to this case.

9 Further, it is RECOMMENDED that this action be DISMISSED without prejudice. Fed.
10 R. Civ. P. 41(b); E. D. Cal. Local Rule 110.

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

20 Dated: November 8, 2018.

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22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE
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