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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TODD ROB BEN,

Plaintiff,

v.

GLENN NORLING,

Defendant.

No. 2:16-cv-2699-WBS-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff, a state prisoner, proceeds without counsel in an action brought under 42 U.S.C. § 1983.¹ This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On August 3, 2017, the court screened plaintiff’s 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. 19. The order warned plaintiff that failure to comply would result a recommendation that this action be dismissed. The district judge granted plaintiff’s motion to stay this action in an order filed December 21, 2017. ECF No. 28. That order stayed this action until May 14, 2018, and directed plaintiff to file his amended complaint by the expiration of the stay. The order further

¹ Plaintiff was a county inmate at the time he commenced this action.

1 admonished plaintiff that if he failed to do so, “this action will be dismissed in accordance with
2 the magistrate judge’s order of August 3, 2017.”

3 The stayed has now expired, the time for acting has passed and plaintiff has not filed an
4 amended complaint.

5 A party’s failure to comply with any order or with the Local Rules “may be grounds for
6 imposition by the Court of any and all sanctions authorized by statute or Rule or within the
7 inherent power of the Court.” E.D. Cal. Local Rule 110. The court may dismiss an action with or
8 without prejudice, as appropriate, if a party disobeys an order or the Local Rules. *See Ferdik v.*
9 *Bonzelet*, 963 F.2d 1258, 1263 (9th Cir. 1992) (district court did not abuse discretion in
10 dismissing pro se plaintiff’s complaint for failing to obey an order to re-file an amended
11 complaint to comply with Federal Rules of Civil Procedure); *Carey v. King*, 856 F.2d 1439,
12 1440-41 (9th Cir. 1988) (dismissal for pro se plaintiff’s failure to comply with local rule
13 regarding notice of change of address affirmed).

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

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

25 Dated: May 21, 2018.

26 
27 EDMUND F. BRENNAN
28 UNITED STATES MAGISTRATE JUDGE