

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

RONALD LEE CANADA,  
Plaintiff,  
v.  
J. LEWIS, et al.,  
Defendants.

No. 2:17-cv-0313-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff, a state prisoner, proceeds 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 March 1, 2018, 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. 29. The order warned plaintiff that failure to comply would result a recommendation that this action be dismissed. The time for acting passed and plaintiff did not file an amended complaint, or otherwise respond to the court’s order.

On April 9, 2018, plaintiff filed a notice of change of address. ECF No. 32. On April 18, 2018, in an abundance of caution, the court granted plaintiff another 30 day extension of time to

//////

1 file his amended complaint and directed the Clerk to re-serve plaintiff with the March 1 order.  
2 ECF No. 33. The time for acting has passed and plaintiff has not filed an amended complaint.<sup>1</sup>

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

12 Accordingly, it is hereby ORDERED that the Clerk of the Court randomly assign a United  
13 States District Judge to this action.

14 Further, it is hereby RECOMMENDED that this action be DISMISSED without  
15 prejudice. Fed. R. Civ. P. 41(b); E. D. Cal. L.R. 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 ////


24 ////

---

25 <sup>1</sup> He has however, requested a courtesy copy of his original complaint, stating that he  
26 cannot file an amended complaint without it. ECF No. 34, 35. The Clerk of the Court properly  
27 responded by informing plaintiff that he must pay for copies of documents. Moreover, plaintiff  
28 does not need to refer to his original complaint to comply with the court's March 1, 2018  
screening order, which summarized plaintiff's allegations and explained why they were deficient.  
*See* ECF No. 29.

1 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
2 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: May 31, 2018.

4   
5 EDMUND F. BRENNAN  
6 UNITED STATES MAGISTRATE JUDGE  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28