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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAMION M. BANKS,
Plaintiff,
v.
KIMBERLY MOULE, et al.,
Defendants.

No. 2:17-cv-0381 DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Plaintiff, who is confined to a wheelchair, contends that while he was incarcerated at the San Joaquin County Jail, defendants discriminated against him based on his disability in violation of the Americans with Disabilities Act. On October 18, 2017, defendants filed a motion to dismiss this case based on plaintiff’s failure to exhaust his administrative remedies. (ECF No. 14.)

When plaintiff did not file a timely opposition to the motion, the court issued an order giving plaintiff an additional thirty days to do so. (ECF No. 18.) Plaintiff was warned that if he failed to file a timely opposition, this court might recommend dismissal of this action.

In a document filed December 20, 2017, plaintiff informed the court that he has been released and that he was “sending a[n] opposition to the motion to dismiss.” (ECF No. 19.) To date, however, the court has not received an opposition from plaintiff.

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Plaintiff will be given one final opportunity to file an opposition to the motion to dismiss. If he fails to do so, this court will recommend dismissal of this case without prejudice. See Fed. R. Civ. P. 41; E.D. Cal. R. 110.

Accordingly, IT IS HEREBY ORDERED that within thirty days of the date of this order, plaintiff shall file his opposition to the motion to dismiss. If plaintiff fails to comply with this order, this court will recommend this case be dismissed without prejudice.

Dated: January 5, 2018



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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