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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROY PECK, III,
Plaintiff,
v.
HOPKINS, et al.,
Defendants.

No. 2:17-cv-0430 JAM KJN P

ORDER

Plaintiff is a former state prisoner proceeding without counsel. On October 2, 2017, defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12. On November 8, 2017, plaintiff was granted an additional thirty days in which to file an opposition, and cautioned that failure to oppose the motion would result in a recommendation that the motion be granted. Plaintiff has not opposed the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” Id. On July 13, 2017, plaintiff was advised of the requirements for filing an opposition to a motion and that failure to oppose such a motion may be deemed a waiver of opposition to the motion.

Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of

1 the Court.” Id. In the order filed July 13, 2017, plaintiff was also advised that failure to comply
2 with the Local Rules may result in a recommendation that the action be dismissed.


3 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

4 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or
5 to comply with these rules or a court order, a defendant may move
6 to dismiss the action or any claim against it. Unless the dismissal
7 order states otherwise, a dismissal under this subdivision (b) and
8 any dismissal not under this rule--except one for lack of
9 jurisdiction, improper venue, or failure to join a party under Rule
10 19--operates as an adjudication on the merits.

11 Id.

12 Good cause appearing, IT IS HEREBY ORDERED that, within fourteen days from the
13 date of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. Failure to file
14 an opposition will be deemed as consent to have the: (a) action dismissed for lack of prosecution;
15 and (b) action dismissed based on plaintiff’s failure to comply with these rules and a court order.
16 Such failure shall result in a recommendation that this action be dismissed pursuant to Federal
17 Rule of Civil Procedure 41(b).

18 Dated: December 20, 2017

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21 KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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