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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

FINDINGS & RECOMMENDATIONS

Plaintiff is a former state prisoner, proceeding without counsel. By order filed December 20, 2017, plaintiff was cautioned that failure to file an opposition to the pending motion to dismiss would be deemed as consent to have the: (a) action dismissed for lack of prosecution; and (b) action dismissed based on plaintiff’s failure to comply with these rules and a court order. (ECF No. 38 at 2.) “Such failure shall result in a recommendation that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).” (ECF No. 38 at 2.)


On December 28, 2017, and January 10, 2018, two court orders were served on plaintiff’s address of record and returned by the postal service. Although it appears from the file that plaintiff’s copy of the December 20, 2017 order was returned, plaintiff was properly served. It is the plaintiff’s responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.

1 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without
2 prejudice for failure to prosecute and to comply with a court order. See Fed. R. Civ. P. 41(b).

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, plaintiff may file written objections
6 with the court. The document should be captioned “Objections to Magistrate Judge’s Findings
7 and Recommendations.” Any response to the objections shall be filed and served within fourteen
8 days after service of the objections. Plaintiff is advised that failure to file objections within the
9 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
10 F.2d 1153 (9th Cir. 1991).

11 Dated: January 18, 2018

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE