UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

NICHOLAS PATRICK,

Plaintiff,

v.

LEAL, et al.,

Defendants.

No. 2:17-cv-857-JAM-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a former state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On December 21, 2018, defendants filed a motion to compel plaintiff to submit to a deposition, to pay costs for the missed deposition, and to respond to their outstanding discovery requests. ECF No. 21. The time for responding to the motion passed, and plaintiff failed to file an opposition or otherwise respond.

On January 25, 2019, the court warned plaintiff that failure to respond to the motion could result in a recommendation that this action be dismissed. ECF No. 23. The court also provided plaintiff a 30-day extension of time to respond. *Id.*

The time for acting has once again passed and plaintiff has not filed an opposition, a statement of no opposition, or otherwise responded to the court's order. Plaintiff has disobeyed this court's orders and failed to prosecute this action. The appropriate action is dismissal without prejudice.

Accordingly, it is RECOMMENDED that this action be dismissed without prejudice. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

DATED: February 27, 2019.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE