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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DUANE PEYTON LINDER,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION,

Defendant.

No. 2:17-cv-0943 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. 11. 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 March 8, 2018, plaintiff filed a request for appointment of counsel, which the court denied, and also filed a statement regarding his medical condition. ECF Nos. 14, 15, 16. On

1 April 17, 2018, in an abundance of caution, the court granted plaintiff another 30 day extension of
2 time to file his amended complaint. ECF No. 17. The time for acting has passed and plaintiff has
3 not filed an amended complaint.

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

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

15 Further, it is hereby RECOMMENDED that this action be DISMISSED without
16 prejudice. Fed. R. Civ. P. 41(b); E. D. Cal. L.R. 110.

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
19 after being served with these findings and recommendations, any party may file written
20 objections with the court and serve a copy on all parties. Such a document should be captioned
21 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
22 objections shall be served and filed within fourteen days after service of the objections. The
23 parties are advised that failure to file objections within the specified time may waive the right to
24 appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
25 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

26 Dated: June 7, 2018.

27 
EDMUND F. BRENNAN
28 UNITED STATES MAGISTRATE JUDGE