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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

<p>JON HUMES,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="padding-left: 100px;">v.</p> <p>LUKENBILL et al.,</p> <p style="padding-left: 100px;">Defendants.</p>		<p>No. 2:17-cv-2609 MCE KJN P</p> <p><u>ORDER</u></p>
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Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on plaintiff’s second amended complaint against sole remaining defendant Lukenbill.¹ (ECF No. 16.) On March 31, 2021, defendant Deputy Brandon Lukenbill filed a motion to dismiss. Plaintiff has not opposed the motion.

Local Rule 230(1) 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 May 18, 2018, plaintiff was advised of the requirements

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¹ In an earlier complaint, plaintiff raised claims against Placer County and other defendants. Such claims were dismissed without prejudice, and plaintiff was granted leave to amend and advised of the requirements for pursuing such claims. (ECF No. 11 at 4-5.) Although plaintiff again named Placer County as a defendant in the defendants’ section of the second amended complaint (ECF No. 16 at 2), plaintiff included no charging allegations as to the county. (ECF No. 16, *passim*.)

1 for filing an opposition to a motion and that failure to oppose such a motion may be deemed a
2 waiver of opposition to the motion. (ECF No. 23 at 2-3.)

3 Local Rule 110 provides that failure to comply with the Local Rules “may be grounds for
4 imposition of any and all sanctions authorized by statute or Rule or within the inherent power of
5 the Court.” Id. In the order filed May 18, 2018, plaintiff was also advised that failure to comply
6 with the Local Rules may result in a recommendation that the action be dismissed.


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

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

12 Id.

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

19 Dated: May 3, 2021

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21 _____
KENDALL J. NEWMAN
22 UNITED STATES MAGISTRATE JUDGE

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