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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ANTHONY AVILA,
Plaintiff,
v.
M.D. McMAHON, et al.,
Defendants.

No. 2:18-cv-00163 JAM AC (PS)

FINDINGS AND RECOMMENDATIONS

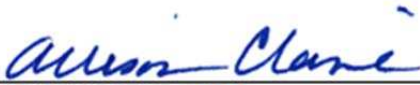
Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On February 22, 2018, defendant the County of San Joaquin filed a motion to dismiss. ECF No. 4. Plaintiff did not timely file a response. On May 10, 2018, the court re-set the hearing on the motion to give plaintiff an opportunity to respond. ECF No. 22. The court specifically cautioned plaintiff that his failure to comply with the order and file a response would be construed as a non-opposition, and that it would result in a recommendation that his claim be dismissed pursuant to Federal Rule of Civil Procedure 41(b). Id. Plaintiff again failed to file a response or take any other action in this case.

Therefore, IT IS HEREBY RECOMMENDED that all claims against the County of San Joaquin be dismissed, without prejudice, for lack of prosecution and for failure to comply with

1 the court's order. See Fed. R. Civ. P. 41(b); Local Rule 110.

2 These findings and recommendations are submitted to the United States District Judge
3 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
4 after being served with these findings and recommendations, any party may file written
5 objections with the court. The document should be captioned "Objections to Magistrate Judge's
6 Findings and Recommendations." Any response to the objections shall be filed and served within
7 seven days (7) after service of the objections. Local Rule 304. Failure to file objections within
8 the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
9 F.2d 1153 (9th Cir. 1991).

10 DATED: May 11, 2018

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12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE
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