UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD DAVID HEMSLEY,

Plaintiff,

v.

S.J. SHEEHAN, et al.,

Defendants.

No. 2:18-cv-0352-WBS-EFB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a former federal pretrial detainee who was housed at the Sacramento County jail. He is proceeding without counsel in a civil *Bivens* action and claims 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 February 13, 2019, 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. 8. The order warned plaintiff that failure to comply would result a recommendation that this action be dismissed. The time for acting has passed and plaintiff has not filed an amended complaint, or otherwise responded to the court's order.

A party's failure to comply with any order or with the Local Rules "may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the

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

Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice. Fed. R. Civ. P. 41(b); E. D. Cal. Local Rule 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." Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that 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: April 10, 2019.

EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE