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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,

Plaintiff,

v.

O’MAR, et al.,

Defendants.

No. 2:18-cv-2068-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

This case was opened pursuant to an order from the Fresno Division of this court. *See Thomas v. Ogbehi*, No. 1:15-cv-1059-LJO-BAM (E.D. Cal. July 30, 2018) (severing and transferring the claims alleged in plaintiff’s third amended complaint that arose at the California Medical Facility in Vacaville, California). This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

On October 15, 2018, this court issued an order stating that to proceed in this action, plaintiff had to file a complaint limited to his claims that arose at the California Medical Facility.¹ ECF No. 45. The court granted plaintiff thirty days within which to file an amended complaint and warned plaintiff that failure to comply would result a recommendation that this action be

¹ The court also noted that plaintiff had apparently passed away in May of 2018 and directed the Clerk of the Court to serve the October 15, 2018 order on plaintiff’s apparent successors in interest. *See* ECF No. 45.

1 dismissed. The time for acting has now passed and no one has filed an amended complaint or
2 otherwise responded to the court's order.

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

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

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

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

25 Dated: November 26, 2018.

26 
27 EDMUND F. BRENNAN
28 UNITED STATES MAGISTRATE JUDGE