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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL ENRIQUE DIAZ,
Plaintiff,
v.
ASSOCIATE WARDEN HURLEY, et al.,
Defendants.

No. 2:19-cv-1241 KJM KJN P

FINDINGS & RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding without counsel. On July 3, 2019, in Diaz v. Hurley, No. 2:15-cv-2083 KJM KJN P (E.D. Cal.), the court ordered that plaintiff's motion for injunctive relief was more appropriately filed in a new action, and such motion was assigned the instant case number. Id. (ECF No. 64 at 1). However, plaintiff was cautioned that in order to commence an action, he was required to file a complaint, as well as pay the filing fee or seek leave to proceed in forma pauperis. Id. Plaintiff was cautioned that failure to comply with the order would result in a recommendation that the newly-opened case be dismissed. Id. (ECF No. 64 at 2.)


On July 24, 2019, plaintiff was granted 45 days in which to comply with the July 3, 2019 order, and to reply to the response filed by special appearance on July 9, 2019. (ECF No. 6.) On August 27, 2019, plaintiff was granted an additional fifteen days in which to comply, and was warned that no further extensions of time would be granted. (ECF No. 12.)

1 Fifteen days have now passed, and plaintiff has not complied with the July 3, 2019 order,
2 or otherwise responded to the court's order.¹

3 As set forth in the court's July 3, 2019 order, in order to commence an action, plaintiff
4 must file a complaint. Fed. R. Civ. P. 3. Plaintiff has not done so. Plaintiff has failed to comply
5 with the court's July 3, 2019 order, as well as the court's subsequent orders. Accordingly, IT IS
6 HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule
7 110; Fed. R. Civ. P. 41(b).

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, plaintiff may file written objections
11 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
12 and Recommendations." Plaintiff is advised that failure to file objections within the specified
13 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
14 (9th Cir. 1991).

15 Dated: September 25, 2019

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KENDALL J. NEWMAN
18 UNITED STATES MAGISTRATE JUDGE

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27 ¹ Although it was entered on the court's docket after the court's August 27, 2019 order, on
28 August 26, 2019, plaintiff signed his document styled, "Document Evidence per Fed. R. of Evid.
201, b-d . . . In support of Time Extension Motion (15 Days)," in which he asked the court to
grant him an additional fifteen days in which to comply with the court's order. (ECF No. 14.)