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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 BARTOLO MULLEN,) No. C 09-6081 RMW (PR)
11 Plaintiff,) ORDER OF DISMISSAL
12 v.)
13 ED FOULK, et al.,)
14 Defendants.)

15 Plaintiff, a formerly civilly committed person proceeding pro se, filed an amended civil
16 rights action pursuant to 42 U.S.C. § 1983 alleging that defendants violated his constitutional
17 rights. On April 25, 2011, defendants moved for summary judgment, arguing that there is no
18 genuine issue of material fact and that they are entitled to judgment as a matter of law. Although
19 given an opportunity, plaintiff did not file an opposition.

20 On September 23, 2011, the court noted that plaintiff had not been in contact with the
21 court since February 15, 2011, and directed the plaintiff to inform the court, within twenty days,
22 whether he intended to proceed with the prosecution of this action. Plaintiff was expressly
23 informed that if he failed to comply with the court's order, this action would be dismissed
24 without prejudice for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil
25 Procedure.

26 More than twenty days have passed since the court's order was filed, and plaintiff has
27 failed to comply. Accordingly, the above-titled action is hereby DISMISSED without prejudice
28 for failure to prosecute.

1 The clerk shall terminate all pending motions and close the file.

2 IT IS SO ORDERED.

3 DATED: _____


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

BARTOLO MULLEN,
Plaintiff,

Case Number: CV09-06081 RMW

CERTIFICATE OF SERVICE

v.

ED FOULK et al,
Defendant.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 27, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Bartolo Mullen
3467 Hillsborough Drive
Concord, CA 94520

Dated: October 27, 2011

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk