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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANNY CAESAR,
Plaintiff,
v.
J. BEARD, et al.,
Defendants.

Case No. 1:13-cv-01726-DAD-BAM-PC

ORDER GRANTING PLAINTIFF'S
REQUEST TO EXTEND TIME TO FILE
OBJECTIONS TO FINDINGS AND
RECOMMENDATIONS

ORDER DIRECTING PLAINTIFF TO FILE
A NOTICE OF CHANGE OF ADDRESS

(ECF NO. 31)

THIRTY DAY DEADLINE

Plaintiff is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 17, 2015, findings and recommendations were entered, recommending dismissal of this action for Plaintiff's failure to state a claim upon which relief could be granted. Plaintiff was granted thirty days in which to file objections. On March 25, 2015, Plaintiff filed a motion to stay this case pending the results of a hearing in state court. On March 30, 2015, the Court denied Plaintiff's motion to stay and granted him a thirty day extension of time to file objections. The order was returned by the U.S. Postal Service as undeliverable and was re-served on Plaintiff. On May 29, 2015, Plaintiff requested a second extension of time on the ground that he had not yet been returned to state prison from the Santa Clara County Jail, and did

1 not have access to his legal property. The Court granted Plaintiff's request. On July 2, 2015,
2 Plaintiff again requested an extension of time on the ground that he had not yet been returned to
3 state prison. The Court granted Plaintiff a 45 day extension of time. On August 24, 2015,
4 Plaintiff filed a third request for extension of time to file objections on the ground that he was
5 still at the Santa Clara County Jail and not in possession of his legal property. On September 15,
6 2015, Plaintiff filed a fourth request for extension of time on the same grounds. On September
7 18, 2015, the Court granted the motion, providing a thirty day extension of time. Plaintiff filed a
8 fifth motion for extension of time on November 30, 2015, which the Court granted on November
9 2, 2015. Plaintiff had yet to be returned to state prison. The order granting the motion was
10 returned by the U.S. Postal Service as undeliverable. On January 4, 2016, Plaintiff filed the
11 motion for extension of time that is now before the Court.

12 The Court notes that Plaintiff's motion does not include his address of record. It appears
13 that Plaintiff has been returned to state prison.¹ Plaintiff is advised that Local Rule 183(b)
14 requires Plaintiff to keep the Court informed of his current address. Plaintiff is cautioned that his
15 failure to comply with the Local Rules is grounds for dismissal.

16 In his motion for extension of time, Plaintiff indicates that he needs time to "review
17 original petition, amended petition, applicable law as recited by the court." Plaintiff indicates
18 that he is "prepared to prepare a petition." This action was initiated by civil complaint filed on
19 October 28, 2013. On March 17, 2014, an order was entered, dismissing the complaint and
20 granting Plaintiff leave to file an amended complaint. The Court advised Plaintiff of the
21 deficiencies in the complaint. On April 17, 2014, Plaintiff filed a first amended complaint. The
22 Court found that Plaintiff failed to correct the deficiencies in the first amended complaint and
23 recommended dismissal of this action for failure to state a claim upon which relief could be
24 granted. It is this recommendation to which Plaintiff is granted leave to object. Plaintiff is
25 advised the first amended complaint was not dismissed for lack of legal analysis, but for a failure
26 to allege facts sufficient to state a claim. A petition is not an appropriate response to the

27 ¹ The order sent to Plaintiff's address of record, the Santa Clara County Jail, was returned as undeliverable. The
28 CDCR online inmate locator indicates that Plaintiff is housed at Kern Valley State Prison.
<http://inmatelocator.cdcr.ca.gov/>

1 recommendation that this civil rights action be dismissed.

2 As noted, Plaintiff has not provided his address of record. The California Department of
3 Corrections and Rehabilitation online inmate locator indicates that Plaintiff is housed at Kern
4 Valley State Prison. The Court will therefore direct the Clerk to serve Plaintiff at that facility.
5 Plaintiff is directed to file a separate Notice of Change of Address, indicating his address of
6 record. Plaintiff is again cautioned that his failure to do could result in dismissal of this action
7 for his failure to obey the Local Rules.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff is directed to file a Notice of Change of Address within thirty days of the
10 date of service of this order;
- 11 2. Plaintiff is granted an extension of time of thirty days from the date of service of this
12 order in which to file objections to the findings and recommendations.
- 13 3. The Clerk's Office is directed to serve this order on Plaintiff at Kern Valley State
14 Prison.
- 15 **4. Failure to comply with this order may result in a recommendation to dismiss this**
16 **action with prejudice and for failure to obey a court order.**

17 IT IS SO ORDERED.
18

19 Dated: January 6, 2016

/s/ Barbara A. McAuliffe
20 UNITED STATES MAGISTRATE JUDGE