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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY DURHAM,

Plaintiff,

No. 2:09-cv-00331 MCE EFB PS

vs.

STATE OF CALIFORNIA (SOLANO
STATE PRISON); WARDEN JOHN W.
HAVELAND; P. REAGAN; and
J. DELGADILLO,

ORDER

Defendants.

On July 21, 2010, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen days. No objections were filed.¹

¹ On July 30, 2010, plaintiff filed a motion for an extension of time in which he states that he has “no objections to [the] findings and recommendations” but that he would like “60 days to address this order of the second amended complaint and 28 days to address the second order of ‘objections to magistrate’s findings and recommendations.’” Dckt. No. 17. Then, on September 18, 2010, plaintiff filed a motion for a 30 day extension of time to file a second amended complaint. Dckt. No. 18. However, the July 21 findings and recommendations recommended that plaintiff “be granted thirty days *from the date of any order adopting these findings and recommendations* to file a second amended complaint.” Dckt. No. 16 (emphasis added). Because more than 28 days have passed since plaintiff’s July 30, 2010 request and because plaintiff’s time to file an amended complaint does not begin running until this order issues, plaintiff’s motion for extensions will be denied as moot.


1 Accordingly, the court presumes any findings of fact are correct. See Orland v.
2 United States, 602 F.2d 207, 208 (9th Cir. 1999). The magistrate judge's conclusions of law are
3 reviewed de novo. See Britt v. Simi Valley Unified Sch. Dist., 708 F.2d 452, 454 (9th Cir.
4 1983).

5 The court has reviewed the applicable legal standards and, good cause appearing,
6 concludes that it is appropriate to adopt the proposed Findings and Recommendations in full.

7 Accordingly, IT IS ORDERED that:

- 8 1. The proposed Findings and Recommendations filed July 21, 2010, are
9 ADOPTED.
- 10 2. Defendant State of California (Solano State Prison) is dismissed without leave
11 to amend.
- 12 3. Plaintiff's amended complaint, Dckt. No. 13, is dismissed with leave to amend.
- 13 4. Plaintiff is granted thirty days from the date of this order to file a second
14 amended complaint.
- 15 5. Plaintiff is directed that the second amended complaint must bear the docket
16 number assigned to this case and must be labeled "Second Amended Complaint."
- 17 6. Plaintiff is cautioned that failure to timely file a second amended complaint
18 will result in a recommendation by the magistrate judge that this action be dismissed.
- 19 7. Plaintiff's motions for extensions of time, Dckt. Nos. 17, 18, are denied as
20 moot.

21 Dated: September 24, 2010

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24 MORRISON C. ENGLAND, JR.
25 UNITED STATES DISTRICT JUDGE
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