

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

STEVEN J. WOHL,

Plaintiff,

v.

GRAY DAVIS, et al.,

Defendants.

CASE NO. 1:03-cv-06921-LJO-SKO PC

ORDER DENYING MOTION

(Doc. 32)

and

FINDINGS AND RECOMMENDATIONS  
RECOMMENDING DISMISSAL OF ACTION

OBJECTIONS DUE WITHIN 30 DAYS

\_\_\_\_\_ /

Plaintiff Steven J. Wohl (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On December 3, 2010, Plaintiff filed a motion requesting a thirty-day extension of time to file his third amended complaint. (Doc. #32.)

Plaintiff’s second amended complaint was screened and dismissed on June 29, 2010, for failing to state any claims. (Doc. #25.) Plaintiff was informed of the deficiencies in his claims and given thirty days leave to file a third amended complaint.

On August 5, 2010, Plaintiff filed a motion requesting a thirty-day extension of time. (Doc. #28.) The Court granted the extension on August 9, 2010. (Doc. #29.) On September 23, 2010, Plaintiff filed a motion requesting a sixty-day extension of time. (Doc. #30.) The Court granted Plaintiff’s motion on September 27, 2010. (Doc. #31.) The Court explicitly warned Plaintiff that **“no further requests for an extension of time to file an amended complaint will be granted.”**

1 (Order Granting Pl.'s Second Mot. to Extend Time to File an Am. Compl. 1:19-20, ECF No. 31.)  
2 Accordingly, Plaintiff's December 3, 2010, motion requesting a third extension of time will be  
3 denied.

4 Pursuant to the September 27, 2010, court order giving Plaintiff sixty days to file an amended  
5 complaint, Plaintiff's third amended complaint was due on November 30, 2010. Since Plaintiff has  
6 failed to file his third amended complaint on time, he has forfeited his opportunity to amend his  
7 complaint. Accordingly, the Court will recommend that this action be dismissed with prejudice for  
8 failure to state a claim upon which relief can be granted. See Ferdik v. Bonzelet, 963 F.2d 1258,  
9 1261 (9th Cir. 1992) (dismissal with prejudice upheld where court had instructed plaintiff regarding  
10 deficiencies in prior order dismissing claim with leave to amend).

11 Based on the foregoing, it is HEREBY ORDERED that Plaintiff's December 3, 2010, motion  
12 requesting an extension of time is DENIED.

13 Further, it is HEREBY RECOMMENDED that this action be dismissed, with prejudice, for  
14 failure to state any claims upon which relief can be granted.

15 These Findings and Recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty (30)  
17 days after being served with these Findings and Recommendations, any party may file written  
18 objections with the Court and serve a copy on all parties. Such a document should be captioned  
19 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections  
20 shall be served and filed within ten (10) days after service of the objections. The parties are advised  
21 that failure to file objections within the specified time may waive the right to appeal the District  
22 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

23  
24 IT IS SO ORDERED.

25 **Dated: December 10, 2010**

**/s/ Sheila K. Oberto**  
UNITED STATES MAGISTRATE JUDGE