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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT GLEN MISTRIEL,

CASE NO. 1:03cv6922 AWI SKO

Plaintiff pro se,

ORDER GRANTING IN PART AND DENYING
IN PART PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO FILE SECOND
AMENDED COMPLAINT

v.

KERN COUNTY, et al.,

(Doc. 39)

Defendants.

/

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 April 14, 2010, the Court screened and dismissed Plaintiff's amended complaint under 28 U.S.C. § 1915A. (Doc. 38.) The Court granted Plaintiff thirty (30) days in which to file a second amended complaint.

On May 6, 2010, Plaintiff requested an extension of time of forty-five (45) to sixty (60) days to file a second amended complaint. (Doc. 39.) According to Plaintiff,

[t]he record in this action has been silent for a substantial amount of time. As a result, Plaintiff has stored the case file in this action. Due to this[,] Plaintiff needs to contact the appropriate party responsible for storing such and seek that they return it immediately. Contacting said person will easily consume 10 days and retrieving and returning the material will consume 20 days easily. As Plaintiff will obviously not be able to amend this action by May 13, 2010, he requests an extension of time to complete amendments after the retrieval and return of this file.

1 Plaintiff's motion is GRANTED IN PART and DENIED IN PART. *See Eldridge v. Block*,
2 832 F.2d 1132, 1136-37 (9th Cir. 1987) (district court abused its discretion in refusing pro se
3 prisoner's timely request for extension of time in which to file amended complaint). Plaintiff shall
4 file a second amended complaint by **no later than June 18, 2010**.

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7 IT IS SO ORDERED.

8 **Dated: May 15, 2010**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE