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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO CORTEZ BUCKLEY, CASE NO. 1:04-cv-5622-MJS (PC)

Plaintiff,

ORDER TO AMEND OR NOTIFY COURT OF WILLINGNESS TO PROCEED ON

COGNIZABLE CLAIM

•

Defendants. PLAINTIFF'S RESPONSE DUE 1/12/11

Plaintiff Antonio Buckley ("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 August 6, 2010, the Court found that Plaintiff had stated a cognizable claim and ordered him by September 9, 2010 to either amend his complaint or notify the Court of his desire to proceed on the cognizable claim. (ECF No. 29.) Plaintiff filed a motion to reconsider; it was denied on September 7, 2010. (ECF No. 31.) The Court then ordered Plaintiff by September 30, 2010 to amend his complaint or indicate that he wished to proceed on his cognizable claim. (Id.) Plaintiff then appealed the Court's Order to the Ninth Circuit. (ECF No. 32.) The Ninth Circuit dismissed the appeal for lack of jurisdiction; the mandate remanding the instant action to this Court was filed November 23, 2010. (ECF No. 36.) This Court now has jurisdiction over this action once again.

Accordingly, Plaintiff is hereby ordered to file an amended complaint or notify the Court of his willingness to proceed on his cognizable claim not later than **January 12**, **2011**. Plaintiff is on notice that failure to comply with this order will result in dismissal for

1	failure to prosecute and failure to comply with a court order.
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5	IT IS SO ORDERED.
6	Dated: December 23, 2010 Isl Michael J. Seng UNITED STATES MAGISTRATE JUDGE
7	ONITED STATES WIAGISTICATE SUDGE
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