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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

QUETZAL CONTRERAZ,

1:04-cv-06039-LJO-GSA-PC

Plaintiff,

ORDER REQUIRING PLAINTIFF TO SHOW
CAUSE WHY DEFENDANT RAYMOND
SHOULD NOT BE DISMISSED FROM THIS
ACTION FOR PLAINTIFF'S FAILURE TO
PROSECUTE

v.

D. ADAMS, et al.,

Defendants.

THIRTY DAY DEADLINE

_____/

Quetzal Contreras (“Plaintiff”) is a prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on July 30, 2004. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed on January 22, 2009, against defendants Derral Adams, Michael Raymond, and Darrow Hetebrink, on Plaintiff’s claims for violation his right to Free Exercise under the First Amendment, and his right to Equal Protection under the Fourteenth Amendment, for denying Plaintiff a religious diet, the right to wear facial hair, and accommodations to perform a full moon ritual, consistent with religious tenets of the Olin Pyramid Religion. (Doc. 32.)¹

I. BACKGROUND

On December 17, 2010, the Court issued an order directing the United States Marshal to serve process in this action upon Defendant Michael Raymond. (Doc. 58.) On March 31, 2011,

¹Defendants Adams and Hetebrink have appeared in this action. (Docs. 44, 54.)

1 a Waiver of Service signed by Defendant Michael Raymond on March 19, 2011 was filed with
2 the Court, giving Defendant Raymond sixty days from March 17, 2011, in which to file an
3 answer or motion under Rule 12 in response to Plaintiff's complaint. (Doc. 62.) More than sixty
4 days have passed, and Defendant Raymond has not filed an answer, a motion under Rule 12, or
5 any other response to Plaintiff's complaint.² (See Court Docket.) Plaintiff has not filed a motion
6 under Rule 55. (Id.)

7 **II. ORDER TO SHOW CAUSE**

8 Within thirty days from the date of service of this order, Plaintiff shall show cause why
9 Defendant Raymond should not be dismissed from this action for Plaintiff's failure to prosecute
10 against him.

11 In accordance with the above, IT IS HEREBY ORDERED that:

- 12 1. Within thirty days from the date of service of this order, Plaintiff shall file a
13 written response to the Court, showing cause why Defendant Raymond should not
14 be dismissed from this action for Plaintiff's failure to prosecute against him; and
- 15 2. Plaintiff's failure to comply with this order shall result a recommendation that this
16 action be dismissed.

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21 IT IS SO ORDERED.

22 **Dated: October 17, 2011**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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²Defense counsel has indicated that Defendant Raymond has not requested representation by the Office of
the Attorney General. (Doc. 76 at 1 fn.1.)