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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANK E. SISNEROZ,)
)
 Plaintiff,)
)
 v.)
)
 WHITMAN, et al.,)
)
)
 Defendants.)

1:05-cv-00519-AWI-GSA-PC

ORDER FOR PLAINTIFF TO EITHER RE-SUBMIT THE SUPPLEMENTAL COMPLAINT OR NOTIFY THE COURT THAT HE WISHES TO PROCEED WITH THE SECOND AMENDED COMPLAINT

THIRTY-DAY DEADLINE

Plaintiff, Frank E. Sisneroz ("plaintiff") is a civil detainee proceeding pro se with a civil rights action under 42 U.S.C. § 1983.

I. BACKGROUND

This action was filed by plaintiff and four co-plaintiffs on April 20, 2005. (Doc. 1.) On August 4, 2005, the court issued an order severing the co-plaintiffs' claims and directing the Clerk of Court to open four new actions, with plaintiff proceeding as the sole plaintiff in the instant action. (Doc. 10.) On May 25, 2006, plaintiff filed an amended complaint. (Doc. 23.) On April 11, 2008, the court screened the amended complaint pursuant to 28 U.S.C. § 1915A and dismissed it for failure to state a claim upon which relief may be granted under § 1983, with leave to amend. (Doc. 33.) On May 12, 2008, plaintiff filed a second amended complaint. (Doc. 34.)

On July 24, 2008, plaintiff submitted a supplemental complaint which was lodged by the court. (Doc. 37.) On October 8, 2008, the court declined to file the supplemental complaint and returned it to

1 plaintiff. (Doc. 38.) On October 22, 2008, plaintiff filed a motion for reconsideration of the court's
2 October 8, 2008 order. (Doc. 39.) On February 20, 2009, the court granted the motion for
3 reconsideration and granted plaintiff leave to re-submit the supplemental complaint within thirty days.
4 (Doc. 42.) The thirty-day period has expired, and plaintiff has not re-submitted the supplemental
5 complaint or otherwise responded to the court's order. At this stage of the proceedings, plaintiff shall
6 be required to make his intentions known to the Court by either re-submitting the Supplemental
7 Complaint or notifying the Court that he wishes to proceed with the Second Amended Complaint.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Within **thirty (30) days** from the date of service of this order, plaintiff must either:
- 10 a. Re-submit his Supplemental Complaint, pursuant to the Court's order of February
11 20, 2009, or
- 12 b. Notify the court in writing that he does not wish to file a Supplemental Complaint
13 and wishes to proceed with the Second Amended Complaint filed May 12, 2008;
14 and
- 15 2. If plaintiff fails to comply with this order, this action will be dismissed for failure to obey
16 a court order.

17 IT IS SO ORDERED.

18 **Dated: April 3, 2009**

19 /s/ Gary S. Austin
20 UNITED STATES MAGISTRATE JUDGE