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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC HOLMES,

Plaintiff,

vs.

A. K. SCRIBNER, et al.,

Defendants.

1:05-cv-00825-LJO-GSA-PC

ORDER VACATING FINDINGS
AND RECOMMENDATION OF
JULY 23, 2009
(Doc. 32.)

ORDER GRANTING EXTENSION
OF TIME TO FILE SECOND
AMENDED COMPLAINT

ORDER DENYING REQUEST FOR
COURT-APPOINTED LEGAL
ASSISTANCE

THIRTY DAY DEADLINE TO FILE
SECOND AMENDED COMPLAINT

_____ /

Eric Holmes ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. On July 23, 2009, the undersigned issued findings and recommendations to dismiss Plaintiff's case for failure to state a claim upon which relief may be granted, based on Plaintiff's failure to timely file a Second Amended Complaint. (Doc. 32.) On August 27, 2009, Plaintiff filed objections to the findings and recommendations and requested court-appointed legal assistance. (Doc. 33.) Plaintiff asserts that he is legally blind and cannot see, read, or understand documents. Plaintiff states that he failed to file the Second Amended Complaint because there was a lockdown at the prison from July 10, 2009 to August 12, 2009. He states that he is still

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3. Plaintiff is GRANTED additional time in which to file a Second Amended Complaint;

4. Within thirty days of the date of service of this order, Plaintiff shall file a Second Amended Complaint, pursuant to the court's order of November 26, 2008; and

5. Plaintiff's failure to comply with this order shall result in a recommendation that this action be dismissed.

IT IS SO ORDERED.

Dated: September 18, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE