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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERIC CHARLES RODNEY K’NAPP,
Plaintiff,
v.
D. G. ADAMS, et al.,
Defendants.

1:06-cv-01096-AWI-GSA-PC
ORDER FOR PLAINTIFF TO SHOW CAUSE
WHY DEFENDANTS GUERRERO AND
GARCIA SHOULD NOT BE DISMISSED
FROM THIS ACTION FOR PLAINTIFF'S
FAILURE TO PROSECUTE AGAINST THEM
THIRTY DAY DEADLINE

I. BACKGROUND

Eric Charles Rodney K’napp (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Original Complaint commencing this action on November 22, 2006. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed by Plaintiff on November 13, 2008, against defendants Warden Derral G. Adams, Lieutenant (“Lt.”) E. Smith, Lt. J. T. Tucker, Associate Warden S. Sherman, and D. Selvy (Classification Services Representative), for retaliating against Plaintiff, and against defendants K. Motty, Sgt. C. Pugliese, Lt. Smith, R. Guerrero, Appeals Coordinator Cooper, Appeals Coordinator V. R. Garcia, Appeals Coordinator R. Hall, and Does 1-5 (Mailroom Workers) for interfering with his right to send mail in violation of the First Amendment.¹ (Doc. 16.)

¹On March 12, 2012, defendants Meaders, Cuevas, and Johnson were dismissed from this action by the Court, based on Plaintiff’s failure to exhaust remedies against them before filing suit. (Doc. 88.) All other claims and defendants, other than those listed above, were dismissed from this action by the Court on August 17, 2009, based on Plaintiff’s failure to state a claim. (Doc. 29.)

1 On March 14, 2012, the Court issued an order directing the United States Marshal to serve
2 process in this action upon Defendants Guerrero and Garcia. (Doc. 89.) On November 13, 2012,
3 the Court received two USM-285 forms from the Marshal indicating that personal service was
4 effected upon Defendants Guerrero and Garcia on October 12, 2012 and October 10, 2012,
5 respectively, which gave the Defendants twenty-one days in which to file an answer or motion under
6 Rule 12 in response to Plaintiff's complaint. Fed. R. Civ. P. 12(a)(1)(A)(i). (Doc. 94.) More than
7 sixty days have passed, and Defendants Guerrero and Garcia have not filed an answer, a motion
8 under Rule 12, or any other response to Plaintiff's complaint. (See Court Docket.) Plaintiff has not
9 filed a motion under Rule 55. Id.

10 **II. ORDER TO SHOW CAUSE**

11 Within thirty days from the date of service of this order, Plaintiff shall show cause why
12 Defendants Guerrero and Garcia should not be dismissed from this action for Plaintiff's failure to
13 prosecute against them.

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

- 15 1. Within thirty days from the date of service of this order, Plaintiff shall file a written
16 response to the Court, showing cause why Defendants Guerrero and Garcia should
17 not be dismissed from this action for Plaintiff's failure to prosecute against them; and
- 18 2. Plaintiff's failure to comply with this order shall result a recommendation that this
19 action be dismissed.

20
21 IT IS SO ORDERED.

22 **Dated: December 13, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE