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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

KELVIN X. SINGLETON,

1:08-cv-00095-AWI-GSA-PC

Plaintiff,

ORDER GRANTING PLAINTIFF’S  
RENEWED MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL COMPLAINT  
(Doc. 129.)

v.

A. HEDGEPATH, et al.,

THIRTY DAY DEADLINE FOR PLAINTIFF  
TO FILE SUPPLEMENTAL COMPLAINT, AS  
INSTRUCTED BY THIS ORDER

Defendants.

\_\_\_\_\_ /

Plaintiff Kelvin X. Singleton (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on January 18, 2008. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed on February 12, 2009, against defendants CMO A. Youssef, CMO S. Lopez, Dr. J. Akanno, Dr. S. Qamar, Dr. Vasquez, RN II M. Ali, and RN II M. Wright-Pearson for deliberate indifference to Plaintiff’s serious medical needs in violation of the Eighth Amendment. (Doc. 26.)

On December 27, 2010, Plaintiff filed a renewed motion for leave to file a supplemental complaint. (Doc. 129.) On January 18, 2011, defendants Ali, Akanno, Lopez, Youssef, Qamar and Wright-Pearson filed a statement of non-opposition to the motion.<sup>1</sup> (Doc. 137.)

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<sup>1</sup> Defendant Dr. Vasquez has not been successfully served in this action and has not otherwise appeared in this action.

1           When considering whether to allow a supplemental complaint, the Court considers factors  
2 such as whether allowing supplementation would serve the interests of judicial economy;  
3 whether there is evidence of delay, bad faith or dilatory motive on the part of the movant;  
4 whether amendment would impose undue prejudice upon the opposing party; and whether  
5 amendment would be futile. See San Luis & Delta-Mendota Water Authority v. United States  
6 Department of the Interior, 236 F.R.D. 491, 497 (E.D. Cal. 2006) (citing Keith v. Volpe, 858  
7 F.2d 467 (9th Cir. 1988), Foman v. Davis, 371 U.S. 178 (1962), and Planned Parenthood of S.  
8 Ariz. v. Neely, 130 F.3d 400 (9th Cir. 1997)).

9           Plaintiff has clearly set forth the specific claims he proposes to include in his  
10 supplemental complaint. He recites allegations against defendant Lopez beginning on June 12,  
11 2009, claiming that defendant Lopez continues to act with deliberate indifference to Plaintiff's  
12 serious eye condition by denying him prescription transitional-lens eyeglasses, causing Plaintiff  
13 to suffer pain and irreparable harm. Plaintiff states that he exhausted his administrative remedies  
14 for the supplemental claims.

15           The Court finds Plaintiff's proposed supplemental claims to be related to the claims in the  
16 operative Second Amended Complaint for this action. The Second Amended Complaint names  
17 defendant Lopez for deliberate indifference to Plaintiff's eye care, and Plaintiff now alleges a  
18 continuing pattern of violations. Defendants are not opposed to Plaintiff's proposed  
19 supplemental complaint, and the Court finds no evidence that the filing of the supplemental  
20 complaint would be futile or impose undue prejudice. The Court finds no evidence of delay, bad  
21 faith or dilatory motive on Plaintiff's part. Therefore, Plaintiff shall be granted leave to file a  
22 supplemental complaint. Plaintiff is advised that the supplemental complaint may only include  
23 the supplemental allegations and claims against defendant Lopez set forth in Plaintiff's renewed  
24 motion filed on December 27, 2010. The supplemental complaint should be boldly entitled  
25 "Supplemental Complaint" and must be complete in itself, signed under penalty of perjury, and  
26 refer to the appropriate case number 1:08-cv-00095-AWI-GSA-PC. Defendants may file an  
27 amended answer to the complaint within thirty days of the date the supplemental complaint is  
28 filed, if they so wish.

1 Based on the foregoing, IT IS HEREBY ORDERED that:

- 2 1. Plaintiff's renewed motion for leave to file a supplemental complaint, filed on  
3 December 27, 2010, is GRANTED;
- 4 2. Plaintiff is granted leave to file a supplemental complaint as instructed by this  
5 order within thirty days of the date of service of this order;
- 6 3. Defendants may file an amended answer to the complaint within thirty days of the  
7 date the supplemental complaint is filed, if they so wish; and
- 8 4. Plaintiff's failure to comply with this order will result in a recommendation that  
9 this action be dismissed for failure to obey a court order.

10  
11 IT IS SO ORDERED.

12 **Dated: January 27, 2011**

**/s/ Gary S. Austin**  
**UNITED STATES MAGISTRATE JUDGE**