

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOSEPH PUCKETT,) 1:08-cv-1384-LJO-SMS
Plaintiff,)
) ORDER DISCHARGING ORDER TO SHOW
) CAUSE (DOC. 5)
)
v.) ORDER GRANTING IN PART
) PLAINTIFF'S MOTION FOR EXTENSION
CHIEF OF POLICE DYER, et al.,) OF TIME (DOCS. 6, 4)
)
Defendants.)
)
)

Plaintiff is proceeding pro se and in forma pauperis with an action for damages and other relief concerning alleged civil rights violations. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) and Local Rules 72-302 and 72-304.

Plaintiff filed his complaint on September 16, 2008. On October 20, 2008, the Court found that Plaintiff had failed to state a claim upon which relief could be granted, ordered the complaint dismissed with leave to amend, and directed Plaintiff to file an amended complaint no later than thirty days after the date of service of the order. The order was served by mail on

1 October 20, 2008. When over thirty days had passed after the
2 filing and service of the order without Plaintiff's having filed
3 an amended complaint, the Court issued an order to Plaintiff to
4 show cause within twenty days why the action should not be
5 dismissed for his failure to state a claim and comply with the
6 Court's orders.

7 Plaintiff did not expressly respond to the order to show
8 cause. Instead, Plaintiff filed a motion for an extension of
9 time, arguing that pain and medication prevented him for filing
10 an amended complaint without a further sixty-day extension of
11 time. Plaintiff's failure to respond expressly to the order to
12 show cause is in itself a failure to comply with an order of the
13 Court. Although any further failure expressly to respond to an
14 order of this Court to show cause will result in a recommendation
15 that the case be dismissed, the Court will construe Plaintiff's
16 request for an extension of time to be a response to the order to
17 show cause in this instance.

18 Although Plaintiff has made a minimal, generalized showing
19 of cause for some delay, Plaintiff has not shown that his
20 condition is such that it requires a further delay of sixty days
21 in addition to the two and one-half months that have already
22 transpired since October 20, 2008, the date of service of the
23 Court's order dismissing the action with leave to file an amended
24 complaint. Plaintiff has already received a forty-five day
25 extension by virtue of the mere passage of time. Plaintiff's
26 claim or claims relate to a single incident of alleged police
27 misconduct. The Court's screening order of October 20, 2008,
28 clearly stated the relatively straightforward requirements

1 concerning alleging sufficient facts to state a claim or claims
2 upon which relief might be granted. The conduct required of
3 Plaintiff is nothing more than a simple, straightforward account
4 of the facts concerning the incident or incidents in question
5 that is specific enough to give the Defendants adequate notice of
6 when, how, and by whom Plaintiff's federally protected rights
7 were violated.

8 Accordingly, Plaintiff will be given another thirty days
9 within which to file an amended complaint.

10 Plaintiff IS INFORMED that the failure to file an amended
11 complaint in accordance with this order will be considered to be
12 a failure to comply with an order of the Court pursuant to Local
13 Rule 11-110 and will result in sanctions, including possible
14 dismissal of this action. Further, failure to file an amended
15 complaint that states a claim upon which relief may be granted
16 will be considered to be grounds for dismissing the complaint
17 pursuant to 28 U.S.C. § 1915(e)(2) and will result in dismissal
18 of the action.

19 No further extensions of time will be granted absent a
20 showing, supported by a factually detailed declaration under
21 penalty of perjury in compliance with 28 U.S.C. § 1746, of cause
22 for any such extension.

23 Accordingly, it is HEREBY ORDERED that:

24 1) The Court's order to show cause that issued on November
25 26, 2008, IS DISCHARGED; and

26 2) Plaintiff's motion for an extension of time IS GRANTED IN
27 PART, and Plaintiff IS GIVEN LEAVE TO FILE an amended complaint
28 in accordance with this order and the Court's screening order of

1 October 20, 2008, no later than thirty days after the date of
2 service of this order.

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4 IT IS SO ORDERED.

5 Dated: January 8, 2009

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/s/ **Sandra M. Snyder**
UNITED STATES MAGISTRATE JUDGE