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

GARY LABRANCH,

Plaintiff,

vs.

JAMES YATES, et al.,

Defendants.

Case No. 1:09-cv-00048 JLT (PC)

ORDER TO SHOW CAUSE WHY THIS
ACTION SHOULD NOT BE DISMISSED
FOR FAILURE TO PROSECUTE

_____ /

Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed December 1, 2010, the Court directed Plaintiff to, within thirty days, either file a third amended complaint curing the deficiencies identified by the Court in its order or notify the Court that he wishes to proceed only on his Eighth Amendment and equal protection claims against Defendants Yates, Mattingly, Davis, Shannon, and Herrera. (Doc. 16.) The Court also warned Plaintiff that failure to comply with the Court’s order would result in the dismissal of the action. (Id.)

On December 27, 2010, Plaintiff filed a motion for an extension of time to respond to the Court’s December 1, 2010 order. (Doc. 17.) The Court granted the motion and afforded Plaintiff an additional thirty days to comply with the Court’s December 1, 2010 order. (Doc. 18.) The thirty day period has expired, and Plaintiff has failed to file a third amended complaint or notify the Court of his willingness to proceed on the claims found cognizable in his second amended complaint.

1 Accordingly, it is **HEREBY ORDERED** that within twenty-one (21) days from the date of
2 service of this order, Plaintiff shall show cause in writing why this action should not be dismissed
3 for his failure to prosecute. In addition, Plaintiff shall either file a third amended complaint or notify
4 the Court that he wishes to proceed only on those claims found cognizable by the Court in its
5 December 1, 2010 order. Plaintiff is firmly cautioned that failure to comply with this order will
6 result the dismissal of this action.

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8 IT IS SO ORDERED.

9 Dated: February 14, 2011

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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