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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHANNON LEWIS AVERY, SR.,	Case No. 1:09-cv-00321-LJO-DLB (PC)
Plaintiff,	ORDER VACATING FINDINGS AND RECOMMENDATIONS
v.	(Doc. 17)
SUZAN L. HUBBARD, et al.,	ORDER REQUIRING PLAINTIFF TO FILE AMENDED COMPLAINT WITHIN 30 DAYS
Defendants.	

_____ /

Plaintiff Shannon Lewis Avery, Sr. (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on January 7, 2009 in the Northern District of California. Plaintiff’s case was transferred to the Eastern District of California on February 23, 2009. On June 22, 2009, the Court issued an order dismissing Plaintiff’s complaint for failure to state a claim upon which relief may be granted, and granting Plaintiff leave to file an amended complaint within 30 days. (Doc. 16.) On September 1, 2009, the Court issued a Findings and Recommendations recommending dismissal of the action for failure to state a claim and failure to file an amended complaint. (Doc. 17.) On September 25, 2009, Plaintiff filed objections to the Findings and Recommendations. (Doc. 18.) Plaintiff contends that he had submitted a request for an extension of time to file an amended complaint. Plaintiff also contends that he has had limited access to the law library and difficulty with receiving his seizure and pain medication.

1 Plaintiff has demonstrated good cause as to why he was unable to comply with the
2 Court's order. Accordingly, the Court will vacate its Findings and Recommendations filed on
3 September 1, 2009. The Court will grant Plaintiff a thirty day extension of time to file his
4 amended complaint.

5 Based on the foregoing, the Court HEREBY ORDERS the following:

- 6 1. The Court's Findings and Recommendations, filed on September 1, 2009, are
7 vacated;
- 8 2. Plaintiff is granted leave to file an amended complaint within **thirty (30) days**
9 from the date of service of this order; and
- 10 3. The failure to comply with this order may result in dismissal of this action for
11 failure to state a claim upon which relief may be granted.

12
13 IT IS SO ORDERED.

14 **Dated: October 20, 2009**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE