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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JIMMY MCDONALD,

Plaintiff,

v.

J. A. YATES, et al.,

Defendants.

CASE NO. 1:09-cv-00730-OWW-SMS PC

ORDER DISCHARGING ORDER TO SHOW CAUSE, GRANTING PLAINTIFF FINAL THIRTY-DAY EXTENSION OF TIME TO FILE AMENDED COMPLAINT, AND DISREGARDING REQUEST FOR STATUS AS MOOT

(Docs. 12-14)

ORDER DIRECTING CLERK'S OFFICE TO SEND COMPLAINT FORM AND COPY OF SCREENING ORDER FILED OCTOBER 14, 2009

Plaintiff Jimmy McDonald, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 24, 2009. On October 14, 2009, the Court issued a screening order requiring Plaintiff to either file an amended complaint or notify the Court of his willingness to proceed only on the claim found to be cognizable in the screening order, within thirty days. Plaintiff sought and was granted two extensions of time to comply with the order. On August 6, 2010, after the second extension of time expired and Plaintiff had not complied with or otherwise responded to the order, the Court ordered Plaintiff to show cause within fifteen days why this action should not be dismissed. Plaintiff filed a response on August 25, 2010, and he filed a request for a status update on November 17, 2010.

In his response, Plaintiff does not address his failure to file an amended complaint, but he reiterates his desire to amend. Plaintiff is granted thirty days within which to file an amended

1 complaint. Plaintiff has had more than one year to draft and file an amended complaint and no
2 further extensions of time will be granted. If Plaintiff fails to file an amended complaint within thirty
3 days, this action will proceed only on Plaintiff's cognizable Eighth Amendment claim against
4 Defendants Cano, Clark, Rodriguez, and Roberts.

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. The order to show cause, filed August 6, 2010, is discharged;
- 7 2. The Clerk's Office shall send Plaintiff a section 1983 complaint form and a copy of
8 the screening order filed on October 14, 2009;
- 9 3. Within **thirty (30) days** from the date of service of this order, Plaintiff shall file an
10 amended complaint;
- 11 4. No further extensions of time will be granted;
- 12 5. If Plaintiff fails to file an amended complaint within thirty days, this action will
13 proceed on Plaintiff's cognizable Eighth Amendment claim against Defendants Cano,
14 Clark, Rodriguez, and Roberts; and
- 15 5. Plaintiff's request for status is disregarded as moot in light of this order.

16
17 IT IS SO ORDERED.

18 **Dated: December 8, 2010**

19 /s/ Sandra M. Snyder
20 UNITED STATES MAGISTRATE JUDGE
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