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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERRY EMANUEL POLLARD,

Plaintiff,

v.

K. HARRINGTON,

Defendant.

CASE NO. 1:09-cv-1232-LJO-MJS (PC)

ORDER TO FILE SECOND AMENDED
COMPLAINT OR NOTIFY COURT OF
DESIRE TO PROCEED ON FIRST
AMENDED COMPLAINT

(ECF No. 27)

Plaintiff's Response due 12/27/10

Plaintiff Jerry Pollard ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On September 7, 2010, the Court granted Plaintiff's motion to amend and ordered Plaintiff to file a second amended complaint by November 1, 2010. (ECF No. 27.) To date, Plaintiff has failed to file an amended complaint. The Court notes that Plaintiff was given leave to amend on his own motion; the Court did not dismiss the prior complaint. In fact, the Court has yet to screen Plaintiff's June 4, 2010 First Amended Complaint. Thus, Plaintiff has the option of proceeding on his First Amended Complaint rather than filing a second amended complaint. However, if he chooses to do so, he must inform the Court.

Accordingly, by **December 27, 2010**, Plaintiff must either file a second amended complaint or indicate that he wants the Court to proceed on his First Amended Complaint.

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1 Plaintiff is hereby on notice that failure to comply with this order will result in dismissal of
2 this action for failure to obey a Court order and failure to prosecute.

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4 IT IS SO ORDERED.

5 Dated: November 26, 2010

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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