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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 RICK DIXON,

12 Plaintiff,

13 vs.

14 KATHLEEN ALLISON, et al.,

15 Defendants.
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1:10-cv-02365-GSA-PC

ORDER GRANTING MOTION FOR
LEAVE TO AMEND

ORDER DIRECTING CLERK TO FILE
THIRD AMENDED COMPLAINT
LODGED ON OCTOBER 9, 2014
(Doc. 23.)

18 **I. BACKGROUND**

19 Rick Dixon ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action
20 pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on
21 December 20, 2010. (Doc. 1.)

22 On January 20, 2011, Plaintiff consented to the jurisdiction of a Magistrate Judge in this
23 action, and no other parties have made an appearance. (Doc. 7.) Therefore, pursuant to
24 Appendix A(k)(4) of the Local Rules of the Eastern District of California, the undersigned shall
25 conduct any and all proceedings in the case until such time as reassignment to a District Judge
26 is required. Local Rule Appendix A(k)(3).

27 The court screened the Complaint and entered an order on April 17, 2013, dismissing
28 the Complaint for failure to state a claim, with leave to amend. (Doc. 12.) On May 20, 2013,

1 Plaintiff filed the First Amended Complaint. (Doc. 13.) The court screened the First Amended
2 Complaint and entered an order on January 27, 2014, dismissing the First Amended Complaint
3 for failure to state a claim, with leave to amend. (Doc. 15.) On May 8, 2014, Plaintiff filed the
4 Second Amended Complaint. (Doc. 21.)

5 On October 23, 2014, Plaintiff filed a motion for leave to amend and lodged a proposed
6 Third Amended Complaint. (Doc. 23.) Plaintiff's motion for leave to amend is now before the
7 court.

8 **II. LEAVE TO AMEND – RULE 15(a)**

9 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the
10 party's pleading once as a matter of course at any time before a responsive pleading is served.
11 Fed. R. Civ. P. 15(a). Otherwise, a party may amend only by leave of the court or by written
12 consent of the adverse party, and leave shall be freely given when justice so requires. *Id.* Here,
13 because Plaintiff has already amended the complaint more than once, Plaintiff requires leave of
14 court to file a Third Amended Complaint.

15 "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so
16 requires.'" *AmerisourceBergen Corp. v. Dialysis West, Inc.*, 445 F.3d 1132, 1136 (9th Cir.
17 2006) (quoting Fed. R. Civ. P. 15(a)). However, courts "need not grant leave to amend where
18 the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an
19 undue delay in the litigation; or (4) is futile." *Id.* The factor of "[u]ndue delay by itself . . . is
20 insufficient to justify denying a motion to amend." *Owens v. Kaiser Foundation Health Plan,*
21 *Inc.*, 244 F.3d 708, 712,13 (9th Cir. 2001) (quoting *Bowles v. Reade*, 198 F.3d 752, 757-58
22 (9th Cir. 1999)).

23 **Plaintiff's Motion**

24 Plaintiff requests leave to file a Third Amended Complaint to make corrections and
25 additions to the Second Amended Complaint. Plaintiff explains that he discovered, through
26 research, that he needs to re-state his claims to meet federal standards. Plaintiff has lodged a
27 proposed Third Amended Complaint for the court's review.

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