

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMES FREDRICK MENEFIELD,	CASE NO. 1:10-cv-2406-MJS (PC)
Plaintiff,	ORDER GRANTING PLAINTIFF’S MOTION TO AMEND FIRST AMENDED COMPLAINT AND
v.	DENYING PLAINTIFF’S MOTION FOR EXPEDITED SCREENING AS MOOT
JAMES A. YATES, et al.,	(ECF Nos. 19 and 20)
Defendants.	

---

/ THIRTY DAY DEADLINE

Plaintiff James Fredrick Menefield (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action in state court, but it was removed to this Court by Defendants. Plaintiff filed a First Amended Complaint on January 11, 2011. (Am. Compl., ECF No. 4.) The Court has not yet screened Plaintiff’s First Amended Complaint.

Before the Court is Plaintiff’s June 3, 2011, Motion to Amend his First Amended Complaint (Mot., ECF No. 19.) Also before the Court is Plaintiff’s Motion for Expedited Screening of his First Amended Complaint, filed on July 15, 2011. (Mot., ECF No. 20.)

1 **I. MOTION TO AMEND FIRST AMENDED COMPLAINT**

2 Plaintiff asks the Court for leave to amend his First Amended Complaint. (ECF No.  
3 19.) Plaintiff's First Amended Complaint has not been screened, and no responsive  
4 pleadings have been filed. Pursuant to Fed. R. Civ. P. 15(a)(2), the Court is to "freely give  
5 leave [to amend] when justice so requires." Because the Court had not acted on Plaintiff's  
6 First Amended Complaint, there is no compelling reason to disallow Plaintiff's request to  
7 further amend.  
8

9 Accordingly, Plaintiff's Motion to Amend is GRANTED. Plaintiff is ordered to file a  
10 Second Amended Complaint within **thirty (30) days** of entry of this Order. The Court will  
11 consider Plaintiff's Second Amended Complaint to be the operative complaint in this case  
12 and will undertake to screen it in due course.  
13

14 **Failure to comply with this Order will result in dismissal of this action.**

15 **II. MOTION FOR EXPEDITED SCREENING**

16 Plaintiff also asks the Court to expeditiously screen his First Amended Complaint.  
17 (Mot., ECF No. 20.) However, since Plaintiff's First Amended Complaint is about to be  
18 amended pursuant to the Order herein, there is no complaint currently before the Court for  
19 screening.  
20

21 Accordingly, Plaintiff's Motion for Expedited Screening is DENIED as moot.  
22  
23

24 IT IS SO ORDERED.  
25

26 Dated: August 3, 2011

/s/ Michael J. Seng

UNITED STATES MAGISTRATE JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27