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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH ANTHONY BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

CASE No. 1:11-cv-01562-MJS (PC)

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S MOTION
TO CLARIFY AND CORRECT

(ECF No. 36)

THIRD AMENDED COMPLAINT DUE
WITHIN THIRTY (30) DAYS

_____ /

Plaintiff Joseph Anthony Brown, a federal prisoner proceeding pro se filed this action on September 15, 2011 pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). (Compl., ECF No. 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (Consent, ECF No. 6.)

On March 14, 2012, the Complaint was screened and dismissed for failure to state a claim with leave to amend. (Order Dismiss. Compl., ECF No. 12.) Then again, on May 2, 2012, Plaintiff's First Amended Complaint (First Am. Compl., ECF No. 16) was dismissed for failure to state a claim and leave to amend was again given. (Order Dismiss. First Am. Compl., ECF No. 22.) On August 24, 2012, Plaintiff both (1) filed a motion to add

1 a supplemental complaint (Mot. to Supp., ECF No. 33), and (2) lodged a second amended
2 complaint. (Second Am. Compl., ECF No. 34.) On August 29, 2012, the Court ordered that
3 Plaintiff notify the Court in writing whether he wished to proceed upon the lodged Second
4 Amended Complaint or file a third amended complaint. (ECF No. 35.) On September 10,
5 2012, Plaintiff filed a motion to clarify, correct and request permission (ECF No. 36) which
6 is now before the Court.

7 Plaintiff's motion to clarify seeks leave to file a third amended complaint and
8 also requests that the Court accept his previously filed supplemental complaint as the
9 third amended complaint. Plaintiff was previously advised he may not proceed on the
10 supplemental complaint. His reiterated request to proceed on the supplemental
11 complaint is denied. Local Rule 220. However, for good cause shown, the Court will
12 grant Plaintiff an opportunity to file a third amended complaint.

13 Accordingly, it is HEREBY ORDERED that:

- 14 1. Plaintiff's request to file a third amended complaint is GRANTED provided
15 the third amended complaint must be filed not later than thirty (30) days
16 following filing of this order,
- 17 2. Plaintiff's request that the Court accept his previously filed supplemental
18 complaint (ECF No. 33) as a third amended complaint is DENIED, and
- 19 3. If Plaintiff fails to file a third amended complaint in compliance with this order,
20 this action will be dismissed with prejudice for failure to obey the Court's
21 order and failure to state a claim.

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25 IT IS SO ORDERED.

26 Dated: September 11, 2012

/s/ Michael J. Seng
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UNITED STATES MAGISTRATE JUDGE