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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 MICHAEL J. SULLIVAN,  
12 Plaintiff,

13 v.

14 M.D. BITER, *et al.*

15 Defendants.  
16

Case No. 1:12-cv-01662-AWI-EPG-PC

ORDER DISCHARGING ORDER TO SHOW  
CAUSE

ORDER FOR CLERK TO SEND PLAINTIFF  
COPY OF SERVICE DOCUMENTS

(ECF No. 71)

THIRTY DAY DEADLINE

17 Plaintiff Michael J. Sullivan is a state prisoner proceeding *pro se* and *in forma pauperis*  
18 with a civil rights action pursuant to 42 U.S.C. § 1983. On August 16, 2016, the Court issued  
19 an order finding that service of Plaintiff's Second Amended Complaint was appropriate and  
20 instructed Plaintiff to complete and submit service documents within 30 days. (ECF No. 70.)  
21 Plaintiff failed to submit the required service documents and the Court issued an order to show  
22 cause why the action should not be dismissed for Plaintiff's failure to prosecute the action.  
23 (ECF No. 71.)

24 On October 17, 2016, Plaintiff filed a response to the Order to Show Cause, explaining  
25 that he still intended to pursue his action but that he had not read the Court's order directing  
26 him to fill out and submit service documents and now cannot find those documents in his  
27 possession. He also renews his request for appointment of counsel, a request that was  
28 previously denied on April 14, 2014. (ECF No. 43.)

1 As explained in its previous order, the Court does not find that this case presents the  
2 required exceptional circumstances to justify appointment of counsel. *Rand v. Rowland*, 113  
3 F.3d 1520, 1525 (9th Cir. 1997). Nor have the circumstances in this case changed substantially  
4 since the Court previously declined to appoint counsel. Plaintiff's request for appointment of  
5 counsel is DENIED.

6 The Court notes that this case has been pending since June 28, 2012 and that much of  
7 the delay appears to stem from Plaintiff's actions. After his first amended complaint was  
8 dismissed with leave to amend, for example, Plaintiff filed no fewer than six separate requests  
9 for extension of time to prepare the Second Amended Complaint. (ECF Nos. 32, 34, 38, 49, 53,  
10 55.) After the Court issued Findings and Recommendations recommending that the action  
11 proceed only against defendants Chen, Patel, and Marchiano, Plaintiff requested three separate  
12 extensions of time to file objections. (ECF Nos. 61, 63, 64.) And even after those extensions,  
13 Plaintiff required an additional extension of time because he failed to file objections that  
14 conformed to the Court's Local Rules. (ECF No. 67.) The case was further delayed after  
15 Plaintiff filed an interlocutory appeal of several of the Court's orders, resulting in an order from  
16 the Ninth Circuit Court of Appeals summarily affirming the Court's decision. (ECF No. 50.)

17 While the Court will provide Plaintiff another opportunity to submit the required service  
18 documents, Plaintiff is advised that any further attempts to delay this action will be viewed with  
19 great disfavor and may result in sanctions, up to and including the dismissal of his case.  
20 Plaintiff is further warned that he must review all Court orders carefully; even if Plaintiff is *pro*  
21 *se*, he is not excused from any deadlines or instructions merely because he did not read an  
22 order.

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