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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER EVAN VANDERWERFF,)	Case No. 1:13-cv-00521-LJO-BAM (PC)
)	
Plaintiff,)	ORDER GRANTING EXTENSION OF
)	TIME TO AMEND COMPLAINT
v.)	
)	(ECF No. 24)
K. ALLISON, et al.,)	
)	FORTY-FIVE DAY DEADLINE
Defendants.)	
)	
)	

Plaintiff Christopher Evan Vanderwerff (“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 on February 13, 2013.

On April 25, 2014, the Court dismissed Plaintiff’s complaint for failure to state a claim, with leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff was warned that if he failed to file an amended complaint in compliance with the order, this action would be dismissed for failure to state a claim.

Plaintiff failed to file an amended complaint. As such, on June 6, 2014, the undersigned issued Findings and Recommendations that this action be dismissed based on Plaintiff’s failure to state any claims upon which relief may be granted. (ECF No. 17.) However, on the same date, Plaintiff filed a motion requesting a forty-five (45) day extension of time to file his amended complaint. (ECF No. 16.) Accordingly, on June 10, 2014, the Court vacated the Findings and Recommendations and granted Plaintiff a forty-five (45) day extension of time to

1 file his amended complaint. (ECF No. 18.) On July 29, 2014, the Court granted Plaintiff a
2 second forty-five (45) day extension of time to file an amended complaint. (ECF No. 20.) Based
3 on the second extension of time, Plaintiff's amended complaint was due on or before September
4 7, 2014.

5 On September 5, 2014, Plaintiff filed a motion for appointment of counsel. (ECF No.
6 21.) The Court denied the motion on September 8, 2014. (ECF No. 22.)

7 As Plaintiff failed to file an amended complaint, on September 24, 2014, the undersigned
8 issued Findings and Recommendations that this action be dismissed based on Plaintiff's failure
9 to state any claims. The Findings and Recommendations were served on Plaintiff and contained
10 notice that any objections were to be filed within fourteen (14) days. (ECF No. 23.)

11 On October 10, 2014, Plaintiff filed objections to the Findings and Recommendations.
12 According to the objections, Plaintiff asserts that he could not comply with the Court's order to
13 amend due to an ongoing medical condition. He requires inmate assistance because his
14 amputated fingers are heavily bandaged and he cannot write or type. Plaintiff therefore asks for
15 a ninety (90) day stay of this action or dismissal without prejudice. Plaintiff explains that he is
16 scheduled for surgical follow-up in mid-January 2015. (ECF No. 24.)

17 At this time, the Court finds it appropriate to grant Plaintiff an additional forty-five (45)
18 days to file an amended complaint. This will permit Plaintiff additional time to obtain assistance
19 in preparing any amended complaint. If Plaintiff does not wish to amend his complaint, then he
20 may file a notice of voluntary dismissal.

21 Accordingly, Plaintiff is HEREBY GRANTED a forty-five (45) day extension of time to
22 file his amended complaint. Plaintiff's amended complaint, if any, shall be filed on or before
23 December 5, 2014. If Plaintiff fails to comply with this order, then this action may be dismissed
24 for failure to state a claim.

25 IT IS SO ORDERED.

26 Dated: October 21, 2014

27 /s/ Barbara A. McAuliffe
28 UNITED STATES MAGISTRATE JUDGE