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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 OBIE CRISP,

12 Plaintiff,

13 vs.

14 WASCO STATE PRISON, et al.,

15 Defendants.  
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1:13-cv-00816-GSA-PC

ORDER GRANTING MOTION TO  
AMEND  
(Doc. 25.)

ORDER DIRECTING CLERK TO FILE  
THIRD AMENDED COMPLAINT  
LODGED ON NOVEMBER 21, 2014  
(Doc. 26.)

20 **I. BACKGROUND**

21 Obie Crisp ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in  
22 this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing  
23 this action on May 30, 2013. (Doc. 1.)

24 On June 24, 2013, Plaintiff consented to Magistrate Judge jurisdiction in this action  
25 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 5.)  
26 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of  
27 California, the undersigned shall conduct any and all proceedings in the case until such time as  
28 reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

1 On July 29, 2013, Plaintiff filed the First Amended Complaint. (Doc. 13.) The court  
2 screened the First Amended Complaint and issued an order on July 3, 2014, dismissing the  
3 First Amended Complaint for failure to state a claim, with leave to amend. (Doc. 23.) On July  
4 18, 2014, Plaintiff filed the Second Amended Complaint. (Doc. 24.)

5 On November 21, 2014, Plaintiff filed a motion for leave to amend the complaint and  
6 lodged a proposed Third Amended Complaint. (Doc. 25.)

7 **II. LEAVE TO AMEND – RULE 15(a)**

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

14 "Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so  
15 requires.'" AmerisourceBergen Corp. v. Dialysis West, Inc., 445 F.3d 1132, 1136 (9th Cir.  
16 2006) (quoting Fed. R. Civ. P. 15(a)). However, courts "need not grant leave to amend where  
17 the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an  
18 undue delay in the litigation; or (4) is futile." *Id.* The factor of "[u]ndue delay by itself . . . is  
19 insufficient to justify denying a motion to amend." Owens v. Kaiser Foundation Health Plan,  
20 Inc., 244 F.3d 708, 712, 713 (9th Cir. 2001) (quoting Bowles v. Reade, 198 F.3d 752, 757-58  
21 (9th Cir. 1999)).

22 **Plaintiff's Motion**

23 Plaintiff requests leave to file a Third Amended Complaint to clarify his allegations and  
24 claims. Plaintiff asserts that he was recently diagnosed with a form of OCD (Obsessive  
25 Compulsive Disorder), which explains why his thoughts and writing were always jumbled.  
26 Now, Plaintiff seeks to file a complaint that is more clear and precise.

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