

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAKEITH LEROY MCCOY,

Plaintiff.

V.

J. RAMIREZ, et al.,

Defendants.

CASE NO. 1:13-cv-01808-MJS (PC)

ORDER REGARDING ORDER TO SHOW CAUSE

(ECF No. 23)

**FOURTEEN (14) DAY RESPONSE
DEADLINE**

CLERK TO FAX COPY OF THIS ORDER
AND ECF No. 10 TO LITIGATION
COORDINATOR AT PLAINTIFF'S
INSTITUTION

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On January 13, 2015, the Court screened Plaintiff's first amended complaint and ordered Plaintiff to either file a second amended complaint or notify the Court of his willingness to proceed only on his cognizable claims. (ECF No. 12.) Plaintiff requested and was granted two extensions of time to file his amended complaint. (ECF Nos. 18 and 21.) Plaintiff also was sent copies of his first amended complaint on three separate occasions, based on Plaintiff's assertions that he did not receive the first or second

1 copies as ordered by the Court.

2 Nonetheless, the time for Plaintiff to amend his complaint passed without Plaintiff
3 either filing an amended complaint or seeking an extension of time to do so. Accordingly,
4 on May 11, 2015, the Court ordered Plaintiff to show cause within fourteen days why the
5 action should not be dismissed. (ECF No. 23.) No timely response was filed.

6 On June 4, 2015, Plaintiff filed an “addendum” to a purported May 18, 2015
7 response to the order to show cause. (ECF No. 24.) Although no May 18, 2015 response
8 was received by the Court, Plaintiff states that his June 4, 2015 filing supports the claims
9 set forth in that response. The addendum consists of a mail log for Plaintiff’s institution,
10 which appears to reflect Plaintiff’s incoming legal mail for the month of April 2015.

11 The Court is unable to discern the import of Plaintiff’s addendum. The Court did
12 not serve any documents on Plaintiff in April. His most recent extension of time was
13 granted in March. Even if Plaintiff did not receive that order, he requested a thirty-day
14 extension of time on March 23, 2015 (ECF No. 20), and did not file an amended
15 complaint in the ensuing thirty days. Plaintiff has yet to present good cause to support
16 discharging the order to show cause or permitting him to maintain this action.

17 The Court will provide Plaintiff **one final opportunity** to show cause, file an
18 amended complaint, or notify the Court of his willingness to proceed only on his
19 cognizable claims. The Court also will direct the clerk to fax a copy of this order and
20 Plaintiff’s March 21, 2014 first amended complaint to the Litigation Coordinator at
21 Plaintiff’s institution, in order to ensure Plaintiff is timely provided with the documents
22 necessary to timely amend his complaint.

23 Plaintiff is advised that, absent changed circumstances or other good cause, **no**
24 **further extensions of time will be given.**

25 Accordingly, it is HEREBY ORDERED THAT:

26 1. Within fourteen (14) days of service of this Order, Plaintiff shall either file
27 an amended complaint or notify the Court of his willingness to proceed only
28 on his cognizable claims, or show cause as to why this action should not

1 be dismissed with prejudice for failure to comply with the Court's order
2 (ECF No. 21) and failure to prosecute;
3 2. If Plaintiff fails to show cause, file an amended complaint, or notify the
4 Court of his willingness to proceed only on his cognizable claims, the
5 action will be dismissed, with prejudice; and
6 3. The Clerk's Office is directed to fax a copy of this order and ECF No. 10 to
7 the Litigation Coordinator at Plaintiff's institution.

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9 IT IS SO ORDERED.

10 Dated: June 5, 2015

11 /s/ Michael J. Seng
12 UNITED STATES MAGISTRATE JUDGE

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