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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

GORDON C. REID,

Plaintiff,

٧.

UNITED STATES OF AMERICA, et al.,

Defendants.

CASE NO. 1:14-cv-01163-LJO-MJS (PC)

ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO OBEY A COURT ORDER AND FAILURE TO PROSECUTE

(ECF No. 42)

FOURTEEN (14) DAY DEADLINE

Plaintiff is a federal prisoner proceeding pro se and in forma pauperis in this civil rights and tort action brought pursuant to <u>Bivens v. Six Unknown Named Agents</u>, 403 U.S. 388 (1971) and the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680.

On July 28, 2015, the undersigned screened Plaintiff's first amended complaint and found that it stated a cognizable First Amendment claim against Defendant Ontiveroz but no other cognizable claims. (ECF No. 31.) Plaintiff was ordered to file an amended complaint or notify the Court of his willingness to proceed only on the cognizable claim. Plaintiff instead filed motions for extension of time and a motion for reconsideration by the assigned district judge. (ECF Nos. 32, 35, 37, 38.) The district judge denied the motion for reconsideration on August 10, 2016. (ECF No. 42.) Plaintiff was ordered to file, within thirty days, an amended complaint or a notice of his

willingness to proceed on the cognizable claim. Plaintiff filed no response and the time for doing so has passed. Accordingly, it is HEREBY ORDERED THAT: 1. Within fourteen (14) days of service of this Order, Plaintiff shall either: a. file an amended complaint, b. notify the Court of his willingness to proceed on the cognizable claim, or c. show cause as to why this action should not be dismissed for failure to prosecute and failure to comply with the Court's order (ECF No. 42); and 2. If Plaintiff fails to show cause or file an amended complaint or notice, the undersigned will recommend that the action be dismissed. IT IS SO ORDERED. <u>Isl Michael J. Seng</u> United States magistrate judge Dated: September 29, 2016