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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TONY HERNANDEZ,

Plaintiff,

v.

C. GIPSON, et al.,

Defendants.

Case No. 1:14-cv-01270-AWI-BAM-PC

ORDER EXTENDING TIME TO FILE AN
AMENDED COMPLAINT

Plaintiff Hernandez is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 3, 2016, an order was entered, dismissing the complaint for failure to state a claim and granting Plaintiff leave to file an amended complaint. (ECF No. 10.) On February 22, 2016, Plaintiff filed a document titled as a “notice of motion and motion dismissing-revoking complaint in its entirety.” (ECF No. 11.)

In his motion, Plaintiff indicates his disagreement with the Court’s ruling. Plaintiff contends that he is “prejudiced by the magistrate’s review of this case before the court.” (ECF No. 11 at 3:20.) Plaintiff states his desire to “revoke my complaint entirely as there can be no redress within the United States Courts and there is no justice within the federal district courts.” (Id. 4, 18:-20.)

In the order dismissing the complaint, the Court explained the deficiencies of the

1 complaint, and provided Plaintiff with guidance in the form of the appropriate legal standards for
2 stating a claim for relief. It appears that Plaintiff is expressing his desire to no longer proceed
3 with this action, and seeks to dismiss this action.

4 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff may dismiss this
5 action, on his own motion, so long as a responsive pleading has not been filed. There has been
6 no service of process, and no defendant has entered an appearance. While it is clear that Plaintiff
7 indicates that he believes he is prejudiced in his ability to proceed, it is unclear whether Plaintiff
8 seeks to dismiss this action. The Court will therefore grant Plaintiff thirty days in which to either
9 file an amended complaint in compliance with the February 3, 2016, order, or a notice of
10 voluntary dismissal. Should Plaintiff fail to respond to this order, a recommendation of dismissal
11 will be entered, recommending that this action be dismissed, without prejudice, on Plaintiff's
12 motion.

13 Accordingly, IT IS HEREBY ORDERED that Plaintiff is granted thirty days from the
14 date of service of this order in which to either file an amended complaint or a notice of voluntary
15 dismissal.

16 IT IS SO ORDERED.

17 Dated: February 24, 2016

17 /s/ Barbara A. McAuliffe
18 UNITED STATES MAGISTRATE JUDGE