

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 EASTERN DISTRICT OF CALIFORNIA  
9

10 JOSEPH PEREZ,

11 Plaintiff,

12 v.

13 R. PADILLA,

14 Defendant.  
15  
16

1:14-cv-01730-EPG (PC)

ORDER ON PLAINTIFF'S LETTER  
(ECF NO. 33)

21-DAY DEADLINE

17 Joseph Perez ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in  
18 this civil rights action pursuant to 42 U.S.C. § 1983. On November 15, 2016, defendant Padilla  
19 filed a motion to dismiss. (ECF No. 30). Plaintiff also filed a notice of the motion to dismiss,  
20 which included a hearing date. (*Id.*). Because having a hearing on a motion to dismiss is not  
21 the Court's regular practice (see Local Rule 230(l)), the Court vacated the hearing and ordered  
22 Plaintiff to file a response (ECF No. 32). On December 8, 2016, Plaintiff filed a letter. (ECF  
23 No. 33).

24 It is difficult to determine what Plaintiff is asking for. Near the end of the letter  
25 Plaintiff states that he wants to know when he can be present on this matter. It appears that the  
26 setting and vacating of the hearing may have confused Plaintiff. As mentioned above, there  
27 will be no hearing on defendant Padilla's motion to dismiss unless the Court determines one is  
28 required after review of all the briefing. Generally, the Court does not conduct oral arguments

1 for motions to dismiss. Thus, Plaintiff must file a written response to the motion to dismiss.

2 Because of this apparent confusion, the Court will grant Plaintiff twenty-one days from  
3 the date of service of this order to file a written response to the motion to dismiss. Defendant  
4 Padilla will have seven days from the filing of the response to file a reply.

5 Accordingly, it is ORDERED that Plaintiff has twenty-one days from the date of service  
6 of this order to file a written response to defendant Padilla's motion to dismiss. Defendant has  
7 seven days from the filing of the response to file a reply.

8 Failure to respond to the motion to dismiss may result in the motion to dismiss being  
9 granted.

10 IT IS SO ORDERED.  
11

12 Dated: December 12, 2016

13 /s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE