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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

FAUSTINO RUA ORTIZ,  
Plaintiff,  
v.  
MADRUGA, *et al.*,  
Defendants.

Case No. 1:15-cv-00943-EPG  
ORDER REQUIRING PLAINTIFF TO FILE  
THIRD AMENDED COMPLAINT

Plaintiff is proceeding *in forma pauperis* in this federal civil rights case filed pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388, 389, 91 S. Ct. 1999, 2001, 29 L. Ed. 2d 619 (1971). Counsel Milton Greg Mullanax has been appointed for the limited purpose of assisting Plaintiff with drafting an amended complaint and identifying defendants in this case. (ECF No. 9.)

A Second Amended Complaint was filed on June 16, 2016, naming 20 unknown John Doe defendants in connection with an alleged denial of medical treatment while Plaintiff was incarcerated at Lerdo State Prison in Kern County, California “under the control and direction of the United States Marshal’s Service after being arrested for various charges related to owning and operating a medical marijuana dispensary in Bakersfield, California.” (ECF No. 11, p. 1 ¶ 1.) Plaintiff was granted leave to serve a subpoena to identify the John Doe defendants, and that subpoena was returned executed on October 18, 2016. (ECF Nos. 12, 14, 17.)

The undersigned judge was thereafter assigned to this case, and a status conference was held on April 20, 2017. Counsel for Plaintiff informed the Court that he had received a response

1 from the subpoena and had obtained relevant medical records. Plaintiff must now determine,  
2 based on discovery permitted by the Court and provided to Plaintiff, whether he can state a claim  
3 against named individuals.

4 Accordingly, the Court ORDERS as follows:

- 5 1. By June 2, 2017, Plaintiff shall file one of the following:
- 6 a. A Third Amended Complaint identifying the individual defendants; or
  - 7 b. A notice of voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) of the Federal  
8 Rules of Civil Procedure.
- 9 2. Failure to file either document will result in dismissal of the action.

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11 IT IS SO ORDERED.

12 Dated: April 20, 2017

*/s/ Eric P. Gray*  
13 UNITED STATES MAGISTRATE JUDGE

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