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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,
 Plaintiff,

 v.

C. OGBEHI, et al.,
 Defendants.

Case No. 1:15-cv-01059-LJO-DLB PC

ORDER REGARDING PLAINTIFF’S
NOTICE OF NEW CASE FILED

(Document 21)

Plaintiff Josh Thomas (“Plaintiff”) is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on July 10, 2015.

On July 14, 2016, the Court determined that Plaintiff was subject to 28 U.S.C. 1915(g), and dismissed the action without prejudice to refile accompanied by the filing fee. Plaintiff appealed the dismissal.

The action was remanded by the Ninth Circuit on February 22, 2016. On March 29, 2016, the Court therefore reopened this action and ordered Plaintiff to file an amended complaint within thirty (30) days.

On April 18, 2016, Plaintiff filed a “Notice of New Case Filed,” in which he explained that while this appeal was pending, he filed a new action, 1:15-cv-01845-LJO-SAB (PC), involving the same claims and same Defendants. The filing was not accompanied by the filing fee.

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1 Plaintiff's filing of 1:15-cv-1845-LJO-SAB (PC) was premature, as the Ninth Circuit had not
2 yet ruled on his appeal. It also resulted in a duplicative action, and it was dismissed as such on April
3 18, 2016.¹

4 Accordingly, Plaintiff SHALL file an amended complaint within thirty (30) days of the date
5 of service in this action.

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7 IT IS SO ORDERED.

8 Dated: April 20, 2016

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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¹ In the Court's August 31, 2015, order denying Plaintiff's motion for reconsideration, the Court noted that the dismissal was without prejudice, and that Plaintiff could file a new action with a more detailed complaint. The Court's instruction was valid at the time, as Plaintiff had not yet filed an appeal. When Plaintiff chose to appeal the dismissal, however, a new action was not the proper method for prosecuting his claims.