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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE B. ORTIZ,
Plaintiff,
v.
D. DAVEY, et al.,
Defendants.

1:15-cv-01427-DAD-MJS (PC)
**ORDER GRANTING PLAINTIFF'S
FOURTH MOTION TO EXTEND TIME TO
FILE AN AMENDED COMPLAINT OR
NOTICE OF WILLINGNESS TO PROCEED
ON COGNIZABLE CLAIMS**
(ECF No. 25)
**CLERK TO SERVE COPY OF ORDER ON
LITIGATION COORDINATOR AT KERN
VALLEY STATE PRISON**
30-DAY DEADLINE

Plaintiff is a prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. On December 15, 2015, the Court issued a screening order finding Plaintiff had stated cognizable claims against Defendants Huewe and Espino for failure to protect and against Defendants Kirby and Huewe for retaliation. (ECF No. 12.) Plaintiff was instructed to file a notice of his willingness to proceed on the cognizable claims or file an amended complaint on or before January 15, 2016.

Before the Court is Plaintiff's fourth request for an extension of time to respond to the Court's order, filed on May 6, 2016. (ECF No. 25.) Every one of Plaintiff's requests for time have been for the same reason: lack of access to his legal materials. (ECF Nos.

1 13, 15, & 17.) Plaintiff reports that he remains in administrative segregation and despite
2 his best efforts has been unable to procure his legal materials from custody
3 management officials.

4 Plaintiff's request will be GRANTED. In addition, the Court will request the
5 assistance of the prison's Litigation Coordinator in resolving Plaintiff's issues with
6 receiving legal mail. The Clerk will be directed to serve a copy of this order on the
7 Litigation Coordinator at Plaintiff's institution. However, Plaintiff is advised that the Court
8 cannot delay action indefinitely. The Court would expect that in most cases, even
9 lacking his complete legal file, a Plaintiff could decide whether to defer to the Court's
10 finding that only specified claims are cognizable and proceed on those alone. Plaintiff is
11 encouraged to try to make that decision even if he lacks his complete file since further
12 extensions of time are unlikely.

13 IT IS HEREBY ORDERED that:

- 14 1. Plaintiff is granted **thirty (30) days** from the date of service of this order in
15 which to file an amended complaint or a notice of willingness to proceed only
16 on cognizable claims.
- 17 2. The Clerk is directed to serve a copy of this order on the Litigation Coordinator
18 at Kern Valley State Prison; and
- 19 3. The Litigation Coordinator's assistance is requested in resolving Plaintiff's
20 difficulties in receiving legal his legal paperwork.

21 IT IS SO ORDERED.

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23 Dated: June 2, 2016

/s/ Michael J. Seng
24 UNITED STATES MAGISTRATE JUDGE
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