

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CHRISTY V. MOORE,	Case No. 1:16-cv-00145-DAD-SKO (PC) ORDER EXTENDING TIME FOR PLAINTIFF TO EITHER FILE AMENDED COMPLAINT OR STATEMENT OF WILLINGNESS TO PROCEED ONLY ON EIGHTH AMENDMENT CLAIM AGAINST OFFICER ARDON (Doc. 1, 11, 12) DEADLINE: June 1, 2017
Plaintiff,	
v.	
BEARD, et al.,	
Defendants.	

Plaintiff, Christy V. Moore, is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On January 27, 2017, an order issued for Plaintiff to either file an amended complaint, or a statement indicating her willingness to proceed only on her claim under the Eighth Amendment against Officer Ardon. (Doc. 11.) Plaintiff was to file her response within twenty-one days. (*Id.*)

However, on March 15, 2017, Plaintiff filed a response indicating that prison personnel did not deliver the order to her until March 7, 2017. (Doc. 12.) Though Plaintiff felt she could correct her claims against the City of Shafter and the CDCR, she felt she had no choice but to only proceed on her Eighth Amendment claim against Officer Ardon since the deadline for her to respond to the January 27, 2017 order had lapsed. (*Id.*) Rather than accept this as Plaintiff’s

1 agreement to dismissal of her claims against the City of Shafter and CDCR, Plaintiff's notice is
2 construed as a request for an extension of time to file an amended complaint.

3 Accordingly, it is **HEREBY ORDERED** that:

- 4 1. The Clerk's Office shall send Plaintiff another copy of the screening order that
5 issued on January 27, 2017 (Doc. 11) and a civil rights complaint form;
- 6 2. **On or before June 1, 2017**, Plaintiff must either:
 - 7 a. file a first amended complaint curing the deficiencies identified in the
8 January 27, 2017 order, or
 - 9 b. a statement that she does not wish to file a first amended complaint and
10 wishes to proceed only on her claim under the Eighth Amendment against
11 Officer Ardon; and
- 12 3. If Plaintiff fails to comply with this order, it will be recommended that this action
13 proceed only on her claim under the Eighth Amendment against Officer Ardon as
14 found cognizable in the January 27, 2017 order and that all other claims and
15 Defendants be dismissed with prejudice.

16 IT IS SO ORDERED.

17
18 Dated: April 4, 2017

/s/ Sheila K. Oberto
19 UNITED STATES MAGISTRATE JUDGE