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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

<p>PABLO HOLGUIN,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>R.WICKS,</p> <p style="text-align: right;">Defendant.</p>	<p>Case No. 1:16-cv-00346-DAD-BAM (PC)</p> <p>ORDER GRANTING PLAINTIFF’S MOTION TO AMEND</p> <p>(ECF No. 14)</p> <p>ORDER DIRECTING CLERK OF COURT TO FILE LODGED FIRST AMENDED COMPLAINT AND EXHIBITS</p> <p>(ECF Nos. 16, 19)</p>
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Plaintiff Pablo Holguin (“Plaintiff”) is a state prisoner proceeding in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On November 17, 2016, the Court found service of the complaint appropriate for Defendant Wicks. (ECF No. 8.)

On March 8, 2017, Defendant Wicks filed a motion to dismiss the operative complaint. (ECF No. 12.) In response, Plaintiff filed a motion for an extension of time to oppose the motion to dismiss, which was granted by the Court. (ECF Nos. 13, 17.)

On April 7, 2017, Plaintiff filed a motion for leave to amend the complaint and a motion to lodge documents in support of the amended complaint. (ECF Nos. 14, 15.) The Court directed the Clerk of the Court to lodge Plaintiff’s documents in support of the lodged amended complaint, and ordered Defendant to file a response to Plaintiff’s motion to amend the complaint. (ECF Nos. 18, 20.) On April 26, 2017, Defendant filed a statement of non-opposition to the motion to

1 amend, and a request for the Court to screen the amended complaint.¹ (ECF No. 21.)

2 As noted by Defendant Wicks, under Federal Rule of Civil Procedure 15(a)(1)(B), a party
3 may amend its pleading once as a matter of course within 21 days after service of a motion under
4 Rule 12(b). Plaintiff's motion to amend was filed within 21 days after service of Defendant's
5 motion to dismiss. (ECF Nos. 12, 14.) In consideration of Rule 15(a)(1)(B) and Defendant's
6 statement of non-opposition, the Court finds that leave to amend should be granted.

7 Accordingly, Plaintiff's motion for leave to amend the complaint (ECF No. 14) is
8 HEREBY GRANTED. The Clerk of the Court is directed to file the First Amended Complaint,
9 lodged on April 7, 2017 (ECF No. 16) and the exhibits in support of the First Amended
10 Complaint, lodged on April 17, 2017 (ECF No. 19.)

11 IT IS SO ORDERED.

12 Dated: May 1, 2017

13 */s/ Barbara A. McAuliffe*
14 UNITED STATES MAGISTRATE JUDGE

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¹ The Court will address the request for screening by separate order.