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

MICHAEL ANGELO LENA,

Plaintiff,

v.

PEOPLE OF THE STATE OF CALIFORNIA, et al.,

Defendants.

Case No. 1:16-cv-01036-LJO-SKO (PC)

**ORDER FOR PLAINTIFF TO RESPOND TO THE SCREENING ORDER**

**TWENTY-ONE (21) DAY DEADLINE**

Plaintiff, Michael Angelo Lena, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. On October 25, 2016, the Court issued a screening order regarding Plaintiff’s civil rights complaint, ordering Plaintiff file within thirty days to either file: (1) an amended complaint curing the deficiencies identified by the Court in its order, or (2) a notice that he would proceed on the two cognizable claims in his original complaint. (Doc. 8.) The Court further notified Plaintiff that his failure to comply with this order would result in dismissal of the action. (*Id.*) Plaintiff did not file a response to the screening order.

On December 13, 2016, the Court issued an order to show cause (“OSC”) to Plaintiff directing him to explain his failure to comply with the response deadline in the Court’s October 25, 2016 screening order. (Doc. 9.) Plaintiff filed his response on December 27, 2016, informing the Court that he never received the Court’s October 25, 2016 screening order. (Doc. 10.) A review of the Court’s docket revealed no record that the screening order was served on Plaintiff. Thus, the OSC was discharged and the deadline for Plaintiff to respond to the screening order was reset. (Doc. 11.) However, rather than respond to the screening order, Plaintiff filed an appeal with the Ninth Circuit Court of Appeal. (Doc. 12.) The Ninth Circuit dismissed Plaintiff’s appeal

1 for lack of jurisdiction on March 20, 2017. (Doc. 15.) Thus, Plaintiff is required to respond to  
2 the October 25, 2016 screening order.

3 Accordingly, it is HEREBY ORDERED that:

- 4 1. The Clerk's Office shall send Plaintiff an amended complaint form and another  
5 copy of the October 25, 2016 screening order (Doc. 8);
- 6 2. Within **twenty-one (21) days** from the date of service of this order, Plaintiff must  
7 either:
  - 8 a. File a first amended complaint curing the deficiencies identified by the  
9 Court in the October 25, 2016 screening order; or
  - 10 b. Notify the Court in writing that he is willing to proceed only on the two  
11 claims found cognizable in the October 25, 2016 screening order for (i)  
12 inhumane conditions of confinement, in violation of the Eighth  
13 Amendment, against Doe Defendant Correctional Officers ("COs"), and  
14 (ii) retaliation, in violation of the First Amendment, against Doe Defendant  
15 COs; and
  - 16 c. If Plaintiff files a notice that he is willing to proceed only on the cognizable  
17 claims, he must include all information available to him to identify the Doe  
18 Defendant COs for service of process (i.e. their physical descriptions, yards  
19 and times of their interaction with Plaintiff, and any documents containing  
20 their identities);
- 21 3. **If Plaintiff fails to comply with this order, the Court will recommend the**  
22 **action be dismissed for Plaintiff's failure to obey a court order.**

23 IT IS SO ORDERED.

24 Dated: March 22, 2017

25 /s/ Sheila K. Oberto  
26 UNITED STATES MAGISTRATE JUDGE