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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 MICHAEL SCOTT McRAE,

12 Plaintiff,

13 v.

14 BAIRAMIAN DIKRAN, et al.,

15 Defendants.  
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**1:16-01066-NONE-GSA-PC**

**ORDER REQUIRING PLAINTIFF TO  
SHOW CAUSE WHY DEFENDANT  
KEVIN CUONG NGUYEN SHOULD NOT  
BE DISMISSED FROM THIS ACTION  
FOR PLAINTIFF'S FAILURE TO  
PROSECUTE AGAINST HIM**

**THIRTY DAY DEADLINE**

19 **I. BACKGROUND**

20 Michael Scott McRae (“Plaintiff”) is a former federal prisoner proceeding *pro se* and *in*  
21 *forma pauperis* with this civil rights action pursuant to Bivens vs. Six Unknown Agents, 403  
22 U.S. 388 (1971). This case now proceeds with Plaintiff’s Second Amended Complaint filed on  
23 March 9, 2018, against defendants Dr. Dikran Bairamian,<sup>1</sup> Dr. Kevin Cuong Nguyen, and Dr.  
24 David Betts, for inadequate medical care under the Eighth Amendment and state law claims for  
25 medical malpractice and medical battery. (ECF No. 14.)  
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28 <sup>1</sup> In his original Complaint, Plaintiff referred to this defendant as Dr. Bairamian, Dikran, M.D.  
(ECF No. 1.) The court entered the defendant’s name as Bairamian Dikran. (Court docket.) In his Answer to the  
complaint defense counsel clarified that this defendant’s name is Dikran Bairamian. (ECF No. 32.)

1 On March 2, 2021, the court issued an order finding service of the Second Amended  
2 Complaint appropriate and directing service of process upon defendant Dr. Kevin Cuong Nguyen  
3 in this action. (ECF No. 97.) On March 10, 2021, the United States Marshal filed a return of  
4 service executed as to defendant Nguyen, indicating that defendant Nguyen was personally  
5 served with process on March 10, 2021. (ECF No. 99.) Under Rule 12 of the Federal Rules of  
6 Civil Procedure, defendant Nguyen had 21 days in which to file an answer or motion under Rule  
7 12 in response to Plaintiff's complaint. More than 60 days have passed and defendant Nguyen  
8 has not filed an answer, a motion under Rule 12, or any other response to Plaintiff's complaint.  
9 (See court record.) Plaintiff has not filed a motion under Rule 55. (Id.)

10 **II. ORDER TO SHOW CAUSE**

11 Within thirty days from the date of service of this order, Plaintiff shall show cause why  
12 defendant Dr. Kevin Cuong Nguyen should not be dismissed from this action for Plaintiff's  
13 failure to prosecute against defendant Nguyen.

14 In accordance with the above, IT IS HEREBY ORDERED that:

- 15 1. Within thirty days from the date of service of this order, Plaintiff shall file a  
16 written response to the court, showing cause why defendant Dr. Kevin Cuong  
17 Nguyen should not be dismissed from this action for Plaintiff's failure to  
18 prosecute against defendant Nguyen; and
- 19 2. Plaintiff's failure to comply with this order shall result in a recommendation that  
20 this case be dismissed.

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22 IT IS SO ORDERED.

23 Dated: May 27, 2021

24 /s/ Gary S. Austin  
25 UNITED STATES MAGISTRATE JUDGE  
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