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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EVERETT HOLLAND,
Plaintiff,
vs.
C. SCHUYLER, et al.,
Defendants.

1:16-cv-01271-DAD-GSA-PC

**ORDER FOR PLAINTIFF TO FILE
AMENDED COMPLAINT WITHIN
THIRTY DAYS**

**ORDER FOR CLERK TO SEND
PLAINTIFF A CIVIL COMPLAINT FORM**

I. BACKGROUND

Everett Holland (“Plaintiff”) is a state prisoner proceeding pro se with this civil rights action pursuant to 42 U.S.C. § 1983. This case was initiated by a Complaint filed in Kern County Superior Court on September 29, 2015, case BCV-15-010047-DRL. On August 26, 2016, the case was removed to federal court pursuant to 28 U.S.C. § 1441(a) by defendants Sergeant R. Esmond, Associate Warden T. Haak, Correctional Officer (C/O) Hunley, C/O Maciejewski, and Associate Warden C. Schuyler. (ECF No. 1.)

On August 22, 2017, the court screened the Complaint and issued an order dismissing the Complaint for failure to state a claim, with leave to amend within thirty days. (ECF No. 13.) On September 11, 2017, Plaintiff appealed the court’s screening order to the Ninth Circuit Court of Appeals. (ECF No. 14.) On September 21, 2017, the Ninth Circuit issued an order

1 dismissing the appeal for lack of jurisdiction, and on October 16, 2017, the Ninth Circuit issued
2 its mandate. (ECF Nos. 17, 18.)

3 Plaintiff has not filed an amended complaint pursuant to the court's order of August 22,
4 2017. Given that Plaintiff's appeal has been dismissed, Plaintiff is now required to file the
5 amended complaint, within thirty days.

6 **II. CONCLUSION**

7 Based on the foregoing, it is **HEREBY ORDERED** that:

- 8 1. The Clerk's Office shall send Plaintiff a civil rights complaint form;
- 9 2. Plaintiff is required to file a First Amended Complaint curing the deficiencies
10 identified by the court in the August 22, 2017, order, within **thirty (30) days**
11 from the date of service of this order;
- 12 3. Plaintiff shall review the August 22, 2017, order for instructions for filing the
13 amended complaint;
- 14 4. Plaintiff shall caption the amended complaint "First Amended Complaint" and
15 refer to the case number 1:16-cv-01271-DAD-GSA-PC; and
- 16 5. If Plaintiff fails to file a First Amended Complaint within thirty days, this case
17 shall be dismissed for failure to state a claim.

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19 IT IS SO ORDERED.

20 Dated: October 18, 2017

/s/ Gary S. Austin
21 UNITED STATES MAGISTRATE JUDGE
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