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

**IN RE:** ) 1:16-mc-00049-SAB  
)  
) ORDER DENYING PLAINTIFF’S MOTION  
) REGARDING ACCESS TO ELECTRONIC CASE  
10 **MARTIN WARE,** ) FILING SYSTEM, DENYING MOTION FOR  
) EXTENSION OF TIME, AND DENYING  
) MOTION TO PROCEED IN FORMA PAUPERIS  
)  
) [ECF Nos. 1, 4, 5]  
)  
)

On September 20, 2016, the Court received a motion from the Plaintiff requesting access to the electronic case filing system at Kern Valley State Prison (“KVSP”) in Delano, California. Plaintiff specifically requested an order directing the litigation coordinator at KVSP to process his section 1983 complaint.

On September 22, 2016, the Court directed the Supervising Deputy Attorney General to respond to Plaintiff’s motion within fourteen days from the date of service. (ECF No. 2.) The Court also directed inmate Martin Ware to file a detailed brief as to how he was denied access to the e-filing system at KVSP within twenty-one days from the date of service of the order. (Id.)

On October 6, 2016, Supervising Deputy Attorney General, Monica Anderson filed a response to the Court’s September 22, 2016, order. (ECF No. 3.)

On October 11, 2016, Plaintiff filed a motion requesting an extension of time to file a late complaint. On October 12, 2016, Plaintiff filed a motion to proceed in forma pauperis. (ECF Nos. 4, 5.)

Counsel Anderson submits the declaration of N. Karlow, Senior Librarian at KVSP, who declares that part of her duties include e-filing complaints for the inmates to the United States District

1 Court for the Eastern District of California. (Declaration of N. Karlow ¶ 2, ECF No. 3-2.) Karlow  
2 further declares that on September 23, 2016, she meet with inmate Ware regarding his request for e-  
3 filing a complaint. Karlow “showed [Mr. Ware] the Standing Order and instruction packet that comes  
4 with the Eastern District 1983 E-filing packet, specifically the portion of the instruction that pertains to  
5 the page limits for each of the three sections. Mr. Ware claimed that he had instructions from a federal  
6 judge that granted him permission to make an initial submission of the 1983 complaint in excess of the  
7 page limitation specified in the E-filing instructions.” (Id. ¶ 3.) Karlow advised Mr. Ware “that in  
8 order to file the document that exceeds the page limit, he must provide the order granting him  
9 permission to file in excess of the E-filing limitation. To date, Mr. Ware has not complied with [the]  
10 instruction.” (Id. ¶ 4.) Karlow further advised Mr. Ware the complaint could be e-filed if he reduced  
11 the number of pages to comply with the Standing Order. (Id. ¶ 5.)

12 A review of the Court’s docket reveals that on October 11, 2016, Plaintiff e-filed a civil rights  
13 complaint in case number 1:16-cv01531-SAB (PC), Ware v. Pfeiffer, et.al., while housed at KVSP.  
14 Inasmuch as Plaintiff has now e-filed the complaint in this Court, Plaintiff’s motion for relief from the  
15 e-filing system shall be denied. To the extent Plaintiff seeks an extension of deadline for filing a civil  
16 rights complaint, his request must be denied. Because the statute of limitations for filing a civil rights  
17 complaint is an affirmative defense, the Court cannot grant Plaintiff an extension of the deadline for  
18 filing a civil rights complaint. Plaintiff may present his arguments relating the filing deadline, if and  
19 when the statute of limitations is at issue before the Court in his pending civil rights action. Further,  
20 Plaintiff’s motion to proceed in forma pauperis filed in this action is denied as unnecessary as this  
21 miscellaneous case was not and will not be opened as civil rights case. As stated in the Court’s  
22 September 22, 2016, “[n]o case as to the merits of Mr. Ware’s claims will be opened until the issue  
23 regarding the use of the e-filing system is resolved unless a civil complaint is filed through the Court’s  
24 e-filing procedures.” (Order at 2:11-13, ECF No. 2.)

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

- 26 1. Plaintiff’s motion for relief from the Court’s e-filing system is **DENIED**;
- 27 2. Plaintiff’s motion for an extension of the deadline to file a civil rights complaint is  
28 **DENIED**;

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3. Plaintiff's motion to proceed in forma pauperis in this action is DENIED; and
4. No further filings should be filed in this action and the Court of Clerk is directed to terminate this action in its entirety.

IT IS SO ORDERED.

Dated: October 13, 2016

  
UNITED STATES MAGISTRATE JUDGE