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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JAMES ROBERT BRISCOE, III,

Plaintiff,

v.

RICHARD MADRID, et al.,

Defendants.

Case No. 1:17-cv-0716-DAD-SKO

**ORDER (1) GRANTING IN PART  
PLAINTIFF’S SECOND MOTION TO  
EXTEND TIME TO FILE AMENDED  
COMPLAINT AND (2) DIRECTING  
CLERK OF COURT TO SEND  
PLAINTIFF COPY OF SCREENING  
ORDER**

**(Doc. 20)**

Plaintiff is a prisoner proceeding *pro se* in a civil rights action pursuant to 42 U.S.C. § 1983 (“Section 1983”). On March 14, 2018, Plaintiff filed his second motion to extend time to file his amended complaint in compliance with the screening order entered on January 26, 2018, currently due April 8, 2018, pursuant to a prior enlargement of time. (*See* Docs. 17 & 20.) Plaintiff requests an additional extension of 180 days in which to file his amended complaint on grounds that he has been transferred to the California Medical Facility in Vacaville, California, and is awaiting access to the legal research library. (*Id.* at 1–2.) Plaintiff contends that his access to the library for “approximately 1 to 2 hours” is “not enough time for [him] to adequately research case law and prepare [his] Third Amended Complaint by or before the deadline.” (*Id.* at 2.)

While good cause exists to grant Plaintiff a second extension of time in which to file his amended complaint, the Court finds that an extension of 180 days is excessive. As set forth more fully in the Court’s January 26, 2018 screening order, Plaintiff’s amended complaint must contain “a *short and plain* statement of the claim showing that the pleader is entitled to relief . . . .” Fed.

1 R. Civ. P. 8(a)(2) (emphasis added). Furthermore, to state a cognizable claim under Section 1983,  
2 a plaintiff must allege facts demonstrating that he was deprived of a right secured by the  
3 Constitution or laws of the United States and that the deprivation was committed by a person  
4 acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). It is the plaintiff's burden  
5 in bringing a claim under Section 1983 to allege, and ultimately establish, that the named  
6 defendants were acting under color of state law when they deprived him of a federal right. *Lee v.*  
7 *Katz*, 276 F.3d 550, 553–54 (9th Cir. 2002).

8 Given the clear standards set forth in the Court's January 26, 2018 screening order by  
9 which Plaintiff's amended complaint will be evaluated—a copy of which is being provided along  
10 with this order—the Court finds that an additional 30-day extension is sufficient to permit Plaintiff  
11 adequate time to conduct legal research and marshal facts to attempt to state a cognizable claim  
12 under Section 1983. Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff is granted thirty (30) days from April 8, 2018, in which to file his amended  
14 complaint; and
- 15 2. The Clerk of Court shall send Plaintiff a copy of the Court's screening order  
16 entered January 26, 2018 (Doc. 15).

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18 IT IS SO ORDERED.

19 Dated: March 16, 2018

*/s/ Sheila K. Oberto*  
UNITED STATES MAGISTRATE JUDGE

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