

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LAWTIS DONALD RHODEN,
Plaintiff,
v.
DEPARTMENT OF STATE HOSPITALS,
et al.,
Defendants.
Case No.: 1:18-cv-00101-SAB (PC)
ORDER GRANTING PLAINTIFF'S MOTIONS
TO AMEND AND DIRECTING CLERK OF
COURT TO FILE THIRD AMENDED
COMPLAINT LODGED ON FEBRUARY 8, 2018
[ECF Nos. 8, 11, 15, 19]

Plaintiff Lawtis Donald Rhoden is a civil detainee appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institutions Code § 6600 et seq. are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir. 2000).

Plaintiff filed the instant action on January 22, 2018.

On January 29, 2018, Plaintiff filed his first motion for leave to amend the complaint, along with a copy of the proposed first amended complaint. (ECF Nos. 11, 12.)

On February 5, 2018, Plaintiff filed his second motion for leave to amend the complaint, along with a copy of the proposed second amended complaint, which was lodged. (ECF No. 15, 16.)

On February 8, 2018, Plaintiff filed his third motion for leave to amend the complaint, along with a copy of the proposed third amended complaint, which was lodged. (ECF Nos. 19, 20.)

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Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's pleading once as a matter of course twenty-one days after serving, or if a response was filed, within twenty-one days after service of the response. Fed. R. Civ. P. 15(a)(1). Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a)(2). Rule 15(a) is very liberal and leave to amend 'shall be freely given when justice so requires.'" AmerisourceBergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. Civ. P. 15(a)).

8 Plaintiff has moved to amend the complaint three times prior to the Court having had an
9 opportunity to conduct the mandatory screening of his original complaint as required by 28 U.S.C.
10 1915(e)(2). Therefore, as this case is still in its infancy, and no Defendant has been served, Plaintiff's
11 motions for leave to amend the complaint will be granted, and the Court will direct the Clerk of Court
12 to file the third amended complaint which will serve as the operative complaint to be screened, at a
13 future date. However, Plaintiff is advised that no further amended complaints should be filed, as he
14 has exercised his one right under Rule 15. Furthermore, Plaintiff is advised that the Court has an
15 extremely large number of pro se plaintiff civil rights cases pending before it, and delay is inevitable.
16 As long as a party keeps the Court informed of the party's current address, the Court will provide
17 notice of all actions which might affect the case as soon as an action is taken in the case, and the Court
18 will screen the complaint in due course.

19 ||| Based on the foregoing, it is HEREBY ORDERED that:

- 20 1. Plaintiff's motions to amend the complaint are granted;
21 2. The Clerk of Court is directed to file the third amended complaint, lodged on February
22 8, 2018 (Doc. 20), which serves as the operative complaint in this action.

24 IT IS SO ORDERED.

25 Dated: February 13, 2018

George A. Bae
UNITED STATES MAGISTRATE JUDGE