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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES MUNOZ,

Plaintiff,

v.

DR. KIRAN TOOR, DR. V. MUNUNURI,
MONIVIRIN SON,

Defendants.

Case No. 1:20-cv-1201-JLT-HBK

ORDER GRANTING PLAINTIFF’S
CONSTRUED MOTION FOR EXTENSION
OF TIME

(Doc. No. 15)

On May 19, 2023, Plaintiff, a former state prisoner,¹ filed a motion for leave to file an amended complaint. (Doc. No. 15). On March 6, 2023, the Court issued a screening order finding that Plaintiff’s initial complaint failed to state a claim. (Doc. No. 9). Plaintiff was given twenty-one (21) days to file an amended complaint or otherwise respond to the March 6, 2023 screening order. (*Id.*). On April 11, 2023, after Plaintiff failed to file an amended complaint or otherwise respond to the March 6, 2023 screening order, the undersigned issued Findings and Recommendations recommending the district court dismiss this action for Plaintiff’s failure to comply with a court order and prosecute this action. (Doc. No. 11). Thereafter, on April 21, 2023, Plaintiff filed a motion requesting an extension of time to respond to the March 6, 2023 screening order. (Doc. No. 12). On April 25, 2023, the Court granted Plaintiff an extension,

¹ Because Plaintiff is no longer incarcerated he is not entitled to the mailbox rule.

1 directing him to respond to the March 6, 2023 Screening Order no later than May 16, 2023.
2 (Doc. No. 14).

3 Plaintiff's instant motion requests leave to file an amended complaint; however, given the
4 procedural posture of this case explained *supra*, the Court construes Plaintiff's motion as a
5 request for a further extension of time to file an amended complaint or otherwise respond to the
6 March 6, 2023 screening order. For good cause shown, a court may grant an extension of time "if
7 a request is made, before the original time or its extension expires" or, if made after the time has
8 expired, the party shows excusable neglect. Fed. R. Civ. P. 6(b)(1)(A), (B). Although the instant
9 motion is untimely and procedurally deficient because Plaintiff fails to provide any reason why a
10 further extension is warranted, given Plaintiff's pro se status and in the interests of justice the
11 Court will grant Plaintiff **one final extension of time**. Plaintiff must file an amended complaint
12 or otherwise respond to the Court's March 6, 2023 screening order (Doc. No. 9) no later than
13 **June 12, 2023**.

14 Accordingly, it is ORDERED:

15 1. Plaintiff's construed motion for an extension of time (Doc. No. 15) is GRANTED
16 to the extent Plaintiff shall file an amended complaint or otherwise respond to the Court's March
17 6, 2023 screening order no later than **June 12, 2023**.

18 2. If Plaintiff timely complies with this Order by filing either an amended complaint
19 or response to the Court's March 6, 2023 screening order, the undersigned will vacate and/or
20 amend her April 11, 2023 Findings and Recommendations as appropriate.

21 3. If Plaintiff does not timely comply with this Order, the undersigned will not vacate
22 her April 11, 2023 Findings and Recommendations.

23
24 Dated: May 22, 2023


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE