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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAWRENCE BIRKS,

Plaintiff,

No. CIV S-07-1473 LKK DAD P

vs.

ROBERT SANTOS,

Defendant.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s “motion for standard of review.”

In plaintiff’s lengthy motion, he lays out what are purportedly standards of review for various federal and state laws. It is not clear what the purpose of plaintiff’s motion is or that he is entitled to any of the relief he seeks. Accordingly, the court must deny plaintiff’s motion.

In addition, the court reminds plaintiff that he must file an amended complaint that complies with this court’s previous orders as well as the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Court in order to proceed with this action. In the interest of justice, the court will grant plaintiff a final thirty days to file an

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1 amended complaint. Failure to comply with the court's order will result in a recommendation for
2 dismissal of this action.¹

3 In accordance with the above, IT IS HEREBY ORDERED that:

4 1. Plaintiff's motion for standard of review (Doc. No. 28) is denied;

5 2. Plaintiff is granted a final thirty days from the date of service of this order to
6 file an amended complaint that complies with this court's previous orders as well as the
7 requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules
8 of Court; the amended complaint must bear the docket number assigned to this case and must be
9 labeled "Amended Complaint"; failure to file an amended complaint in accordance with this
10 order will result in a recommendation that this action be dismissed without prejudice; and

11 3. The Clerk of the Court is directed to send plaintiff the court's form for filing a
12 civil rights action.

13 DATED: February 24, 2010.

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16 _____
17 DALE A. DROZD
18 UNITED STATES MAGISTRATE JUDGE

16 DAD:9
17 birk1473.mot

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23 _____
24 ¹ The court apologizes for the inadvertent delay in this case. On November 18, 2008, the
25 court denied plaintiff's motion for preliminary injunctive relief and ordered plaintiff to file an
26 amended complaint. Plaintiff filed an interlocutory appeal from that order. Evidently, on
February 24, 2009, the Ninth Circuit dismissed plaintiff's appeal. However, the Ninth Circuit
failed to serve this court with the order dismissing the appeal. As a result, this court was
unaware of the Ninth Circuit's disposition of the interlocutory appeal until now.