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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 with a civil rights action pursuant to 42 U.S.C. § 1983. On April 22, 2010, the undersigned issued findings and recommendations, recommending that this action be dismissed without prejudice due to plaintiff’s failure to file an amended complaint in accordance with the court’s November 19, 2008 order. Pending before the court is plaintiff’s objections to those findings and recommendations.

In his objections, plaintiff argues that he was unable to file an amended complaint because he had been transferred to California State Prison, Lancaster. Plaintiff also argues that he does not have access to the law library and requests that the court grant him “a later date to continue this civil action.”

In the interest of justice, the court will vacate its April 22, 2010 findings and recommendations and grant plaintiff thirty days leave to file an amended complaint. Plaintiff is

1 cautioned once again that his failure to file an amended complaint will result in the dismissal of  
2 this action. In addition, plaintiff is reminded that he filed this action and has a duty to diligently  
3 prosecute this case in good faith.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The court's April 22, 2010 findings and recommendations (Doc. No. 36) are  
6 vacated; and

7 2. Plaintiff shall file an amended complaint within thirty days of the date of this  
8 order, or this action will be dismissed. See Fed. R. Civ. P. 41(b).

9 DATED: June 22, 2010.

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13 DALE A. DROZD  
14 UNITED STATES MAGISTRATE JUDGE

13 DAD:sj  
14 birk1473.vac+amc