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

ROBERT J. BARDO,

No. 2:07-cv-02558-MMM

Plaintiff,

vs.

JAMES TILTON, ET AL.,

Defendants.

ORDER GRANTING
LEAVE TO AMEND

Robert J. Bardo, a California prisoner incarcerated at Mule Creek State
Prison, seeks leave to amend his complaint under Federal Rule of Civil Procedure
15(a)(2) in this pro se civil rights action. In light of Rule 15(a)(2)'s liberal
amendment policy, Bardo's motion to amend is granted. See DCD Programs, Ltd.
v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987) (Rule 15(a) is to be applied with
"extreme liberality") (internal quotation marks omitted). In permitting Bardo to
file an amended complaint, however, the court takes no position whether the

1 amended complaint will survive a motion to dismiss. Defendants may raise again
2 the arguments presented in opposition to Bardo's motion to amend at the
3 appropriate time. Defendants have also asserted qualified immunity as a defense,
4 an issue not yet briefed by Bardo, and the court will entertain that defense on the
5 filing of a motion by Defendants.

6 **IT IS ORDERED**

7 Bardo's motion for leave to amend is granted. The clerk of court shall file
8 the amended complaint, attached as Exhibit A to the motion for leave to amend
9 [Dkt. #59]. Pursuant to Local Rule 220, Exhibits 1-3 of Bardo's superceded
10 complaint [Dkt. #10] shall be filed as exhibits to the amended complaint.

11 Dated: December 23, 2010
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16 HON. M. MARGARET McKEOWN
17 UNITED STATES CIRCUIT JUDGE
18 Sitting by Designation