

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

CHARLES EDWARD VALLEY,)	2: 08-CV-00112 SOM
)	
Plaintiff,)	ORDER EXTENDING TIME TO COMPLY
)	WITH THIS COURT'S PREVIOUS
vs.)	ORDER
)	
SCOTT KERNAN, R. MANDEVILLE,)	
A.J. MALFI, M. RUFF,)	
)	
Defendants.)	
_____)	

ORDER EXTENDING TIME TO COMPLY WITH THIS COURT'S PREVIOUS ORDER

I. INTRODUCTION.

Plaintiff Charles Edward Valley is a state prisoner proceeding pro se. On November 16, 2009, Valley submitted a letter to the court saying that he is seriously ill. Based on that letter, this court grants Valley an additional 42 days, until December 30, 2009, to comply with this court's Order of October 21, 2009. This court also orders that a USM form, summons, amended Complaint, and this court's October 21 Order be mailed again to Valley.

II. BACKGROUND.

On October 21, 2009, this court screened Valley's amended Complaint and determined that Valley only stated a claim of retaliation against Defendant Scott Kernan. Valley v. Kernan, No. 2: 08-cv-00112, 2009 WL 3416016, at *1 (E.D. Cal. Oct. 21, 2009). This court gave Valley the option of either filing a Second Amended Complaint or allowing his case to proceed only

against Kernan based on his retaliation claim. Id. at *1. If Valley chose the latter, Valley was to submit certain documents to the court, including a completed notice of submission of documents, summons, a completed USM 285 form, and one copy of the endorsed amended Complaint. Id. at *5. Valley was to either file a Second Amended Complaint, or submit the requisite documents to the court, by November 20, 2009. Id.

Valley submitted a letter to the court on November 16, 2009. In that letter, Valley says that he is seriously ill and has been undergoing radiation treatments to fight cancer. It appears to the court that Valley is alleging that he is unable to comply with this court's October 21, 2009 Order because of his illness. This court thus grants Valley an additional 42 days, until December 30, 2009, to either file a Second Amended Complaint or submit the required forms to the Court.

In his letter, Valley also alleges that he did not receive the requisite forms - a summons, USM form, and amended Complaint - that he needs if he decides to proceed against Kernan. On October 21, 2009, those documents were mailed to Valley. However, because Valley alleges that he did not receive them, the court orders that the documents be mailed again to his current address.

Finally, in his letter, Valley makes certain statements implying that he wants to voluntarily dismiss his case. If

Valley wants to dismiss his case, he should submit a notice of dismissal clearly stating his intent to end the case.

III. CONCLUSION.

This court gives Valley until December 30, 2009, to comply with this court's October 21 Order by either filing a Second Amended Complaint, submitting the requisite documents to the court, or providing a clear notice of dismissal of the case. This court also orders that a USM form, summons, amended Complaint, and this court's October 21 Order be mailed again to Valley.

IS SO ORDERED.

DATED: Honolulu, Hawaii, November 18, 2009.



/s/ Susan Oki Mollway

Susan Oki Mollway
Chief United States District Judge

Valley v. Kernan, et. al, 2: 08CV112 SOM; ORDER EXTENDING TIME TO COMPLY WITH THIS COURT'S PREVIOUS ORDER.