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

MARTY GLEN ALLEN,

Plaintiff,

No. CIV S-08-0944 JAM CMK P

vs.

J. WALKER,

Defendant.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983.¹ Pending before the court are two motions plaintiff has entitled “Motion to Amend the Complaint” (Doc. 18) and “Motion to Amend the Petition” (Doc. 17), both filed on January 5, 2009. On the same date, plaintiff also filed an amended complaint (Doc. 19).

Plaintiff’s original complaint was dismissed on October 7, 2008, but plaintiff was granted leave to file an amended complaint within 30 days. Plaintiff requested additional time to file his amended complaint, which was granted on December 2, 2008. Plaintiff has complied

¹ Plaintiff is referring to himself as a petition, indicating he is filing documents in his habeas case. If plaintiff was intending to file documents in his habeas case, he is reminded of the necessity of filing documents in the correct case. This issue was discussed in this court’s previous order.

1 with that court order by filing his amended complaint on January 5, 2009.²

2 As plaintiff was proceeding under court order to file an amended complaint, no
3 request for leave of court to do so was necessary. His motion requesting leave to file an amended
4 complaint will be denied as unnecessary. His amended complaint, which the court is required to
5 screen pursuant to 28 U.S.C. § 1915A(a), will be addressed separately.

6 In addition to his request for leave to file his amended complaint, plaintiff also
7 appears to be requesting the court issue an order granting him “Preferred Legal User” status.
8 Plaintiff, however, does not allege that he is under a present obligation to submit documents
9 within a time certain and thus has not demonstrated that his right of access to the courts is being
10 impaired. He does refer to his other case he claims is pending in the Fresno Division of this
11 court, case number 1:07-CV-0175-LJO-DLB. However, the docket in that case reflects that case
12 is closed and on appeal. Plaintiff is not under any current deadline in this case, having already
13 submitted his amended complaint to the court, and the court will not set a deadline merely for the
14 purpose of insuring the plaintiff additional library time.

15 Accordingly, IT IS HEREBY ORDERED that:

16 1. Plaintiff’s motions to file an amended complaint (Docs. 17 & 18) are
17 denied as unnecessary; and

18 2. Plaintiff’s request for a court-ordered deadline, or an order granting him
19 “Preferred Legal User” status, is denied.

20 DATED: January 15, 2009

21 
22 **CRAIG M. KELLISON**
23 UNITED STATES MAGISTRATE JUDGE

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26 ² The court notes the complaint was signed on December 20, 2008.