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

KELVIN HOUSTON,

Plaintiff,

No. CIV S-09-0178 EFB P

vs.

MIKE KNOWLES, et al.,

Defendants.

ORDER

_____ /

Pursuant to this court’s order of July 17, 2009, plaintiff has filed an amended complaint.¹ The July 17, 2009 order explained that this court is obliged to examine the complaints of prisoners to determine whether they state a claim for relief pursuant to 28 U.S.C. § 1915A; Dckt. No. 19, at 1-2. Plaintiff’s previous complaint was so long and rambling that the court could not reasonably discern what claim was being asserted and against what person or persons. *Id.*, at 2. Thus, plaintiff was informed that he must make his averments in a simple, concise and direct manner. *Id.* He also was informed that this court would construe his allegations liberally and would not dismiss this action until plaintiff had an opportunity to cure

_____ ¹ Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He seeks leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). The case is before the undersigned pursuant to plaintiff’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(1)-(2).

1 them. *Id.* Moreover, the court explained that plaintiff was not required to describe any legal
2 theories for relief; rather, only a simple explanation of the wrongs that were committed and the
3 injury he suffered would suffice. *Id.*, at 3. After identifying the procedural rules that must be
4 followed in drafting a complaint, the court warned plaintiff that failure to comply with these
5 rules and the court's order could result in this action being dismissed. *Id.*, at 4-5.

6 Plaintiff's amended complaint consists of 30 pages of allegations, containing the identical
7 "Statement of Claim" filed with the original complaint, and nearly 100 pages of attachments.
8 Plaintiff has not altered the substance of his allegations to comply with the court's order that he
9 make his allegations in a simple, concise, and direct manner. He relies extensively on citations
10 to attachments in order to allege facts and injury. In spite of the previous admonitions, plaintiff
11 has not complied with Rule 8 of the Federal Rules of Civil Procedure or this court's July 17,
12 2009, order. The court will provide plaintiff with one more chance to amend the complaint to
13 comply with the federal rules. Plaintiff is hereby warned, however, that the case will be
14 dismissed if he fails to amend the complaint in compliance with the court's July 17, 2009 order
15 and the procedural rules cited therein. *See* Local Rule 11-110.

16 Plaintiff has also filed a Motion to Expedite Action. Dckt. No. 21. However, the actions
17 requested therein (ordering service on defendants and/or securing documentary evidence) are not
18 appropriate at this time because plaintiff has still not submitted a properly amended complaint
19 which states a claim for relief.

20 Accordingly, it is hereby ORDERED that:

21 1. Plaintiff's amended complaint is dismissed with leave to amend within 30 days.
22 Plaintiff shall file an original and one copy of the amended complaint, which must bear the
23 docket number assigned to this case and be titled "Second Amended Complaint." Failure to
24 comply with this order may result in this action being dismissed and, if warranted, that dismissal
25 will be with prejudice.

26 ///

1 2. Plaintiff's Motion to Expedite Action, filed February 10, 2010, is denied without
2 prejudice.

3 Dated: June 30, 2010.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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