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

ROBERT P. BENYAMINI,

Plaintiff,

No. CIV S-09-2462 DAD P

vs.

J.D. HARRIS, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On September 11, 2009, the court ordered plaintiff to submit within thirty days either the \$350.00 filing fee or a properly completed application to proceed in forma pauperis. On October 9, 2009, the court granted plaintiff's motion for a thirty-day extension of time to comply with the court's order.

On October 20, 2009, plaintiff filed a motion to stay this case because he allegedly suffers from several medical conditions and is heavily medicated. In the interest of justice, the court will grant plaintiff a second extension of time to submit the \$350.00 filing fee or a properly completed application to proceed in forma pauperis; however, the court will not stay this action.

Plaintiff is cautioned that he must diligently proceed with this action, and if he is unable to do so,

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1 he may request that this action be voluntarily dismissed without prejudice and re-file his action at
2 a later date. See Fed. R. Civ. P. 41(b).

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff's October 20, 2009 motion for a stay (Doc. No. 6) is denied; and

5 2. Plaintiff shall submit, within thirty days from the date of this order, either the
6 \$350.00 filing fee or a properly completed application to proceed in forma pauperis; plaintiff is
7 cautioned that failure to comply with this order or seek an extension of time to do so will result
8 in a recommendation that this action be dismissed without prejudice.

9 DATED: November 6, 2009.

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12 _____
13 DALE A. DROZD
14 UNITED STATES MAGISTRATE JUDGE

13 DAD:9
14 beny2462.msty