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7	IN THE UNITED STATES DISTRICT COURT
8	FOR THE EASTERN DISTRICT OF CALIFORNIA
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10	JAMES L. JEFFERSON No. CIV S-10-0340-MCE CMK-P
11	Plaintiff,
12	vs. <u>ORDER</u>
13	J.R. WEAVER, et al.,
14	Defendants.
15	/
16	Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42
17	U.S.C. § 1983. Pending before the court are two of Plaintiff's motions relating to filing an
18	amended complaint (Docs. 21, 22).
19	Plaintiff appears to be requesting the ability to file an amended complaint, based
20	on the title of the motions. However, such a motion is unnecessary. Plaintiff has previously
21	been provided the opportunity to file an amended complaint and has not taken advantage of such
22	an opportunity. However, pursuant to Federal Rule of Civil Procedure 15(a)(1), a party may
23	amend his pleading once as a matter of right at any time before being served with a responsive
24	pleading. As no responsive pleading has been served, Plaintiff's motion is unnecessary.
25	In addition, Plaintiff states he continues to have problems with the mail while
26	incarcerated. The court notes that it is in receipt of Plaintiff's service documents and other
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filings which Plaintiff seems to think have been confiscated. However, the court was waiting to
determine whether Plaintiff was going to file an amended complaint prior to forwarding the
service document on to the U.S. Marshal for service. If Plaintiff continues to be concerned
whether the court is in receipt of his filings, he may provide the court with an extra copy of his
filing, along with a self-addressed, stamped envelope with the correct postage and a conformed
copy of his filing will be returned to him.

Accordingly, Plaintiff's motion to amend (Doc. 21) and motion for assistance
(Doc. 22) are denied as unnecessary. If Plaintiff intends to file an amended complaint as
previously provided, he must do so within 30 days of the date of service of this order. If no
amended complaint is filed within that time frame, the undersigned will re-issue the findings and
recommendations to dismiss defendant Agguirre and this case will proceed against defendants
Weaver and Doowly.

IT IS SO ORDERED.

DATED: October 20, 2010

CRAIG M. KELLISON UNITED STATES MAGISTRATE JUDGE