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

FERNANDO AVILA PEREZ, JR.,

Plaintiff,

No. 2:10-cv-1984 MCE JFM (PC)

vs.

MCDONALD, et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner, commenced this action pro se by filing an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. By order filed August 10, 2010, plaintiff’s request to proceed in forma pauperis was granted and defendants were directed to respond to the petition.

On October 22, 2010, defendants filed a motion to dismiss this action for failure to state a cognizable claim for habeas corpus relief. Plaintiff opposed the motion. On January 14, 2011, this court issued an order and findings and recommendations, appointing the Federal Defender to represent plaintiff and recommending that defendants’ motion to dismiss be denied.

On February 15, 2011, this court approved a proposed substitution of attorney, substituting Krista Hart, Esq., as counsel for plaintiff in place of Assistant Federal Defender Carolyn Wiggin. On April 6, 2011, the district court issued an order declining to adopt the

1 January 14, 2011 findings and recommendations and granting plaintiff twenty days to raise his  
2 claims in an amended civil rights complaint pursuant to 42 U.S.C. § 1983. On April 21, 2011,  
3 plaintiff filed, pro se, an amended complaint, a motion to proceed in forma pauperis, and a  
4 motion for appointment of counsel. On April 27, 2011, plaintiff filed a second motion to proceed  
5 in forma pauperis.

6 Because plaintiff is represented by counsel, all documents filed on behalf of  
7 plaintiff should be filed by his attorney of record. Counsel for plaintiff will be directed to inform  
8 the court within ten days how she intends to proceed in light of the district court's April 6, 2011  
9 order and the documents subsequently filed by plaintiff.

10 In accordance with the above, IT IS HEREBY ORDERED that:

11 1. The Clerk of the Court is directed to change the nature of suit code for this  
12 action in accordance with the district court's April 6, 2011 order; and

13 2. Within ten days from the date of this order counsel for plaintiff shall inform  
14 the court within ten days how she intends to proceed in light of the district court's April 6, 2011  
15 order and the documents subsequently filed by plaintiff.

16 DATED: May 2, 2011.

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19 UNITED STATES MAGISTRATE JUDGE

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