

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

SHERMAN JONES, et al.,

Plaintiffs,

No. 2:10-cv-2174 KJM KJN P

vs.

C. CANNEDY, et al.,

Defendants.

ORDER

\_\_\_\_\_ /

Plaintiff is a state prisoner at California State Prison-Sacramento (“CSP-SAC”), proceeding without counsel, who seeks relief pursuant to 42 U.S.C. § 1983. On September 8, 2010, this court found that plaintiff’s complaint stated potentially cognizable claims for relief, and, on September 29, 2010, directed the United States Marshal to serve process on defendants. Following the court’s grant of an extension of time, defendants filed a motion to dismiss on December 21, 2010. Plaintiff did not file an opposition. On February 25, 2011, the court directed plaintiff to file an opposition or statement of nonopposition within thirty days. On March 7, 2011, plaintiff filed a response wherein plaintiff stated that he had never received defendants’ motion to dismiss, likely due to the “change-over of counsel.” (Dkt. No. 23 at 2.) Plaintiff also filed a proposed First Amended Complaint (Dkt. No. 22), which the court construes, in conjunction with plaintiff’s response, as a motion for leave to file an amended

1 complaint.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Defendants shall, within seven days after the filing date of this order, re-serve  
4 on plaintiff their motion to dismiss and shall, within three days thereafter, file a certificate of  
5 such service with the court.

6 2. Plaintiff shall, on or before April 8, 2011, file and serve his opposition to  
7 defendants' motion to dismiss; plaintiff shall include, in a separate section, his reasons for  
8 seeking leave of court to file his proposed First Amended Complaint.


9 3. Defendants shall, on or before April 29, 2011, file a reply to plaintiff's  
10 opposition to their motion to dismiss and, in a separate section, respond to plaintiff's request for  
11 leave to file his proposed First Amended Complaint.

12 DATED: March 16, 2011

13

14

15

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

16 jone2174.misc

17

18

19

20

21

22

23

24

25

26