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

REX CHAPPELL,

Plaintiff,

No. CIV S-10-2676 KJM GGH P

vs.

DUC, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se. He seeks relief pursuant to 42 U.S.C. § 1983 and is proceeding in forma pauperis.

The undersigned screened plaintiff's original complaint on December 14, 2010, and dismissed it with leave to amend within twenty-eight days. The undersigned noted the deficiencies of plaintiff's complaint and described how plaintiff could overcome these deficiencies in an amended complaint. On January 11, 2011, plaintiff was granted a forty-five day extension of time to file his amended complaint. The forty-five day period expired and plaintiff never submitted an amended complaint or contacted the court. On March 21, 2011, the undersigned issued findings and recommendations that this action be dismissed.

On April 11, 2011, plaintiff filed objections and indicated he was without his property and has since received his property back. The undersigned would normally have

1 allowed plaintiff an opportunity to file an amended complaint. However, plaintiff stated that he  
2 had reviewed the original complaint and felt there was no way to improve it and would not file  
3 an amended complaint. Plaintiff stated he should not have to amend and if the court insists, then  
4 it was a matter for the Ninth Circuit.

5 As a result, on April 26, 2011, the undersigned recommended that this case be  
6 dismissed for the reasons stated in the first screening order and as plaintiff refused to file an  
7 amended complaint. On May 12, 2011, plaintiff filed objections, though it is not entirely clear  
8 who wrote the objections and if it is the same person who has written the prior filings for this  
9 case. The objections state that plaintiff should not have to file an amended complaint, but if  
10 required he will comply. The objections also say that even though plaintiff has filed nearly 16  
11 actions, they have been filed by many other inmates as plaintiff pays others to do his work.  
12 Apparently, plaintiff is prescribed a lot of psychotropic medication and according to the  
13 objections is not able to file anything. While it may be common practice for inmates to aid one  
14 another, it is not clear if plaintiff's best interests are being considered.

15 Nevertheless, and out of an abundance of caution, plaintiff will be provided 21  
16 days to file an amended complaint.<sup>1</sup> No extensions will be granted. Failure to file an amended  
17 complaint will result in a recommendation that this action be dismissed.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. The April 26, 2011, findings and recommendations (Doc. 13) are vacated;

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25 <sup>1</sup> While the objections could perhaps be construed as an amended complaint, it was not  
26 clear if that was plaintiff's intention based on many of the statements made.

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2. Plaintiff will be provided 21 days to file an amended complaint. No extensions will be granted. Failure to file an amended complaint will result in a recommendation that this action be dismissed.

DATED: June 13, 2011

/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS  
UNITED STATES MAGISTRATE JUDGE

GGH: AB  
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