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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,
Plaintiff,
v.
NANGALAMA, et al.,
Defendants.

No. 2:12-cv-1202 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding pro se, with a civil rights action pursuant to 42 U.S.C. § 1983. On March 27, 2015, defendants filed a motion to modify the scheduling order solely to delay the deposition of plaintiff until resolution of the status of Dr. Duc as a defendant is resolved. On January 13, 2015, defendants filed a response to the court’s order seeking assistance in locating defendant Vu. Defendants stated that it appeared that plaintiff’s references in his complaints to “Dr. Vu” were actually directed to “Dr. Vu Duc,” who was dismissed from this action on June 25, 2014. Dr. Duc was dismissed from this action because plaintiff’s second amended complaint contained no charging allegations against Dr. Duc.

Plaintiff did not file a response to defendants’ information concerning Dr. Duc, and has not sought leave to amend to include charging allegations against Dr. Duc. Thus, it is unclear whether plaintiff wishes to delay this action and seek leave to amend to raise allegations as to Dr. Duc, or whether he wishes to proceed solely as to defendants Nangalama, Sahota, Whitted, and

1 Turner. If defendant Vu was incorrectly named, it appears that defendant Vu should be dismissed
2 from this action.


3 Due to the unknown status of Dr. Duc, defendants' motion to briefly extend the discovery
4 deadline to depose plaintiff is granted. In all other respects, the March 27, 2015 discovery
5 deadline remains in effect. Plaintiff is directed to complete and file, within twenty-one days, the
6 attached notice, to advise whether he does not wish to delay this action and intends to proceed
7 solely as to defendants Nangalama, Sahota, Whitted, and Turner, or whether he seeks leave to
8 amend. If he seeks to amend, he shall include a motion to amend, and a proposed third amended
9 complaint. Plaintiff shall also indicate whether he consents to the dismissal of defendant Vu.

10 Plaintiff is cautioned that failure to respond to this order will result in a recommendation
11 that defendant Vu be dismissed, and this action will proceed solely as to defendants Nangalama,
12 Sahota, Whitted, and Turner, inasmuch as Dr. Duc was previously dismissed from this action.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Defendants' request to briefly extend the discovery deadline (ECF No. 66) is granted;
- 15 2. Defendants shall depose plaintiff on or before May 1, 2015;
- 16 3. Within twenty-one days from the date of this order, plaintiff shall complete the
17 attached Notice and submit the following documents to the court:
 - 18 a. The completed Notice; and
 - 19 b. If he chooses to seek leave to amend, a motion to amend, accompanied by a
20 proposed third amended complaint;
- 21 4. The Clerk of the Court is directed to send plaintiff a copy of the second amended
22 complaint (ECF No. 39), and the form for filing a civil rights complaint by a prisoner.

23 Dated: March 31, 2015

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25 _____
26 KENDALL J. NEWMAN
27 UNITED STATES MAGISTRATE JUDGE
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS
Plaintiff,
v.
NANGALAMA, et al.,
Defendants.

No. 2:12-cv-1202 MCE KJN P

NOTICE

Plaintiff responds to the court's order as follows:

1. _____ Plaintiff does not wish to delay this action but proceeds solely as to defendants Nangalama, Sahota, Whitted, and Turner.

OR

_____ Plaintiff seeks leave to amend. Enclosed are plaintiff's motion to amend and proposed third amended complaint.

2. _____ Plaintiff voluntarily dismisses defendant Vu, who was incorrectly named.

DATED:

Plaintiff