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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEXTER BROWN,  
Plaintiff,  
v.  
STATE OF CALIFORNIA, et al.,  
Defendants.

No. 2:12-cv-03045 MCE AC

ORDER

Plaintiff is a state prisoner proceeding without counsel. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983, and is proceeding in forma pauperis. This proceeding was referred to this court pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 302.

On May 6 and May 20, 2013, plaintiff filed a first and second amended complaint, respectively. ECF Nos. 10, 11. On October 2, 2013, this court issued an order dismissing plaintiff's first and second amended complaints, and granting plaintiff thirty days to file a third amended complaint. ECF No. 12.

Plaintiff failed to file a third amended complaint within thirty days. As a result, on November 12, 2013, this court issued findings and recommendations recommending dismissal of this action. ECF No. 16. Plaintiff was given twenty-one days to file objections to the findings and recommendations. Id. The findings and recommendations were re-served on plaintiff at his new location, pursuant to plaintiff's November 7, 2013 notice of change of address. See ECF No.

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On November 19 and November 21, 2013, plaintiff filed letters describing various alleged misconduct such as mail tampering, food poisoning and compelled psychotropic medications. ECF Nos. 17, 18. To an extent, plaintiff's letters are not germane to the claims presented in his first and second amended complaints. It is unclear to the court whether plaintiff received the October 2, 2013 order dismissing his amended complaints and granting him leave to file a third amended complaint. While the order was not returned as undeliverable, nothing in plaintiff's recent correspondence indicates his awareness of either the October 2, 2013 order or the court's subsequent November 12, 2013 findings and recommendations.

Given plaintiff's recent communications, and out of an abundance of caution, the court will vacate the November 12, 2013 findings and recommendations, and grant plaintiff an additional thirty days from the date of this order to file a third amended complaint in accordance with the court's October 2, 2013 order. Plaintiff is hereby cautioned that failure to file a third amended complaint **within thirty days from the date of this order** will result in a recommendation that plaintiff's action be dismissed.

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed on November 16, 2013 (ECF No. 16) are vacated;
- 2. The Clerk of the Court shall send plaintiff a copy of the court's October 2, 2013 order (ECF No. 12); and

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1           3. Plaintiff is granted thirty days from the date of service of this order to file a third  
2 amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules  
3 of Civil Procedure, and the Local Rules of Practice; the third amended complaint must bear the  
4 docket number assigned this case and must be labeled "Third Amended Complaint"; plaintiff  
5 must file an original and two copies of the third amended complaint; failure to file a third  
6 amended complaint in accordance with this order will result in a recommendation that this action  
7 be dismissed.

8 DATED: December 9, 2013

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10 ALLISON CLAIRE  
11 UNITED STATES MAGISTRATE JUDGE  
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