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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH LAVERY,  
Plaintiff,  
v.  
B. DHILLON et al.,  
Defendants.

No. 2:13-cv-2083 MCE AC P

ORDER

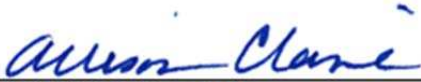
Plaintiff is a state prisoner who, represented by counsel, is proceeding with a civil rights action pursuant to 42 U.S.C. § 1983. On June 9, 2017, the court recommended that plaintiff’s Eighth Amendment deliberate indifference claims against defendants Dhillon, Rading, Ditomas, and Clark be dismissed without further leave to amend. ECF No. 135. The court so recommended after finding that plaintiff had been given adequate opportunities to state a cognizable claim against these defendants, but had failed to do so. Id. at 4-5. On June 27, 2017, plaintiff’s counsel filed objections to the recommendations in which he acknowledged that the second amended complaint was inadequately plead with respect to the claims against the aforementioned defendants. ECF No. 136 at 2. Counsel stated, however, that this inadequacy was due to the unavailability of certain documents which were removed from plaintiff’s cell by correctional officers. Id. Consequently, counsel asks that the dismissal be with leave to amend. Id. at 3.

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IT IS THEREFORE ORDERED that:

1. The findings and recommendations filed June 9, 2017 (ECF No. 135) are VACATED;
2. Plaintiff must file a third amended complaint within thirty days of the date of this order's entry;
3. Any requests for extension of time with respect to the foregoing deadline must be accompanied by a written statement explaining what steps plaintiff's counsel has undertaken to submit an adequate complaint.

DATED: July 10, 2017

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE