1 2 3 4 5 UNITED STATES DISTRICT COURT 6 7 FOR THE EASTERN DISTRICT OF CALIFORNIA 8 9 BERNARD L. SMITH. No. 2:14-cv-2222-KJM-EFB P 10 Plaintiff, 11 **ORDER** v. 12 UNKNOWN, 13 Defendant. 14 15 Bernard L. Smith is a state prisoner proceeding without counsel. This action was opened 16 when he filed letters directed to the Mule Creek State Prison Chief Medical Officer, and to United 17 States District Judge Thelton E. Henderson. ECF Nos. 1, 2. On October 15, 2014, the court 18 informed plaintiff that a complaint is necessary for the commencement of a civil action pursuant 19 to Fed. R. Civ. P. 3, and granted Mr. Smith 30 days to properly commence a civil action. ECF 20 No. 15. When he failed to do so, the court recommended on November 18, 2014, that this action 21 be closed. Plaintiff filed objections on November 25, 2014 in which he claims he never received 22 the blank civil rights complaint from the Clerk. Plaintiff's objections, construed as a request for 23 extension of time, is granted, to the extent that the court will hold the findings and 24 recommendations in abeyance for a period of 60 days. The Clerk is directed to reserve on 25 plaintiff a copy of the October 15, 2014 order and a blank civil rights complaint. 26 Accordingly, IT IS HEREBY ORDERED that: 27 1. The Clerk is directed to send plaintiff a copy of the court's October 15, 2014 order and 28 a blank civil rights complaint form;

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- 2. The November 18, 2014 findings and recommendations are held in abeyance, and plaintiff has 60 days from the date of this order to file his complaint; and
- 3. Should plaintiff fail to timely comply, those findings and recommendations will be submitted to the district judge for consideration.

DATED: December 2, 2014.

EDMUND F. BRENNAN

UNITED STATES MAGISTRATE JUDGE