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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES DAVID LOGAN, II,
Plaintiff,
v.
EVALYN HORWITZ, et al.,
Defendants.

No. 2:15-cv-0121 AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to the jurisdiction of the undersigned magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c) and Local Rule 305(a). ECF No. 6.

On June 29, 2015, the court issued an order denying plaintiff’s motion for in forma pauperis status pursuant to the three strikes provision of the Prison Litigation Reform Act of 1995 (PLRA). ECF No. 29; 28 U.S.C. § 1915(g). The court found that plaintiff had filed at least eight different cases that qualified as strikes under § 1915(g) and that the complaint did not allege plaintiff was “under imminent danger of serious physical injury.” ECF No. 29. Plaintiff was ordered to pay the filing fee within twenty-one days of the court’s order or face dismissal of this action. Id.

The twenty-one day period passed and plaintiff did not pay the filing fee, but he did file a motion to amend that indicated that he might be “under imminent danger of serious physical

1 injury.” ECF No. 30. Plaintiff was given an opportunity to amend the complaint and was advised
2 that if he chose not to amend the complaint, or if the amended complaint did not contain an
3 allegation of imminent danger of serious physical injury, this action would be dismissed unless he
4 paid the filing fee. ECF No. 31 at 2. In granting plaintiff’s motion to amend, plaintiff was
5 informed that the court could not refer to previous pleadings and that the amended complaint
6 needed to state all the claims he wanted to bring and be filed as a single document. Id. Plaintiff
7 was also warned that the court would not consider piecemeal, partial filings. Id. The court has
8 already granted plaintiff one extension of his time to file an amended complaint. ECF No. 34.

9 Since being granted an extension of time to file an amend complaint, plaintiff has filed
10 five additional requests for extension of time, two of which also request to add defendants to the
11 complaint or amend the complaint to increase the damages sought. ECF Nos. 36, 39, 41, 46, 48.
12 Plaintiff has also filed a first amended complaint. ECF No. 37. However, the amended complaint
13 does not comply with the instructions given by the court and plaintiff has filed numerous other
14 documents in which he asks to add defendants to the complaint. Id. at 2; ECF Nos. 40, 42, 44, 45.

15 Plaintiff has not complied with the court’s orders related to the form of the amended
16 complaint. The first amended complaint filed by plaintiff clearly seeks to supplement, rather than
17 replace, the original complaint. Moreover, it has been followed up with numerous piecemeal
18 requests to add additional defendants. The court will disregard the first amended complaint and
19 various requests to amend or add to the complaint and plaintiff will be given one more
20 opportunity to file an amended complaint that complies with the court’s instructions. Because
21 plaintiff is being given another opportunity to file an amended complaint, his motions for
22 extension will be denied as moot.

23 If plaintiff chooses to amend his complaint, the amended complaint must be *one*
24 *document* and include *all* of the claims plaintiff wants to make, because the court will not look at
25 the claims or information in the original complaint or any other documents plaintiff has already
26 filed. The court will not look at any separate documents plaintiff files after filing the amended
27 complaint. In other words, any claims not in the amended complaint will not be considered.

28 The first amended complaint must be on the form for prisoner civil rights complaints

1 which will be provided to plaintiff. Plaintiff must list all defendants that he wants to bring a
2 claim against and explain what they did that he believes violates his rights. The court will not
3 consider any claims against defendants who are not named in the amended complaint. If plaintiff
4 needs more space to explain all of his claims, he may use additional sheets of paper and attach
5 them directly to the complaint form. The additional pages must be filed with the complaint form,
6 not as separate documents.

7 If plaintiff does not file an amended complaint within thirty days of service of this order,
8 or if the amended complaint does not contain an allegation that plaintiff is in imminent danger of
9 serious physical injury, this case will be dismissed unless plaintiff pays the filing fee.

10 Summary

11 The court will not look at plaintiff's amended complaint or requests to amend the
12 complaint or add defendants to the complaint because plaintiff did not follow the court's previous
13 instructions. Plaintiff will have one more chance to file an amended complaint. Plaintiff may file
14 a first amended complaint and must follow the instructions set out above.

15 If plaintiff does not file an amended complaint within thirty days of service of this order,
16 or if the amended complaint does not contain an allegation that plaintiff is in imminent danger of
17 serious physical injury, this case will be dismissed unless plaintiff pays the filing fee.


18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. Plaintiff's first amended complaint and requests to amend or add to the complaint
20 (ECF Nos. 40, 42, 44, 45) are disregarded.
- 21 2. Plaintiff's motions for extension (ECF Nos. 36, 39, 41, 46, 48) are denied as moot.
- 22 3. Within thirty days of service of this order, plaintiff shall submit an original and one
23 copy of the amended complaint. Plaintiff's amended complaint shall comply with the
24 requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, the Local Rules of
25 Practice, and the instructions contained in this order. The amended complaint must also bear the
26 docket number assigned to this case and must be labeled "First Amended Complaint." Failure to
27 file an amended complaint in accordance with this order will result in dismissal of this action
28 unless plaintiff pays the filing fee.

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4. The Clerk of the Court is directed to send plaintiff a copy of the prisoner complaint form used in this district.

DATED: February 10, 2016



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE