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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ANGELO LENA,
Plaintiff,
v.
FRANK FOULK, et al.,
Defendants.

No. 2:16-cv-0152 KJM CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action seeking relief under 42 U.S.C. § 1983. By order filed September 26, 2017, plaintiff was granted thirty days within which to file an amended complaint and was cautioned that failure to file an amended complaint within that time would result in dismissal. ECF No. 28. On October 18, 2017, plaintiff filed a response to the court’s September 26, 2017 order in which he contended he had been transferred to a new prison and denied access to his legal materials. ECF No. 32. By order filed December 1, 2017, the court requested from the Office of the California Attorney General (OAG) an informal response to plaintiff’s October 18, 2017 response. ECF No. 22.

The OAG has filed a response. ECF No. 37. The OAG presents evidence that plaintiff has had access to his legal materials since October 27, 2017. ECF No. 37-1 at 2. Specifically, the OAG has presented evidence that plaintiff received four boxes of personal property and five boxes of legal material on October 27, 2017, two additional boxes of legal material on December

1 6, 2017, and that plaintiff has the ability to request access to his remaining 18 boxes of legal
2 material by requesting to exchange a box in his possession for a box held by the Receiving and
3 Release office. *Id.*

4 Plaintiff was cautioned that this action would be dismissed if he did not timely file an
5 amended complaint. ECF No. 28 at 4. More than thirty days has passed since plaintiff has had
6 access to his legal materials and he has not filed an amended complaint. Moreover, the record
7 reflects plaintiff has been given ample opportunity to amend his complaint. *See, e.g.*, ECF Nos.
8 22, 24, 26, 28.

9 Accordingly, good cause appearing, IT IS HEREBY ORDERED that this action is
10 dismissed. *See* Fed. R. Civ. P. 41(b).

11 DATED: February 12, 2018.

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15 UNITED STATES DISTRICT JUDGE
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