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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD E. TINSLEY,  
Plaintiff,  
v.  
ROBERT FOX, Warden, et al.,  
Defendants.

No. 2:16-cv-1647 TLN AC P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action under 42 U.S.C. § 1983, challenging the urinary drug testing to which he has been subjected. The case was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 7, 2016, Magistrate Judge Allison Claire filed an Order and Findings and Recommendations, wherein she screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A, and dismissed the complaint with leave to file a First Amended Complaint. The Magistrate Judge recommended that Plaintiff’s requests for extraordinary preliminary relief be denied. Plaintiff timely filed objections to the Order and Findings and Recommendations, wherein he challenges the substance and accuracy of the Magistrate Judge’s screening order as well as her recommendation that his requested preliminary relief be denied. Plaintiff offers the following compromise, ECF No. 17 at 4:

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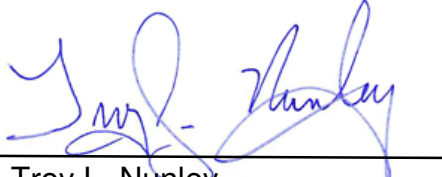
[I]f the U.S. District court judge will rightfully dismiss RVRs [Rules Violation Reports] 2 - 29, and others in process, plaintiff will comply [with] the next random MRUP [Mandatory Random Urinalysis Program] test order, after a reset period, plaintiff so swears.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and recommendations to be supported by the record and by proper analysis. More specifically, for the reasons set forth by the Magistrate Judge, this Court concludes that extraordinary preliminary relief is unwarranted at this time. Moreover, Plaintiff may, in a First Amended Complaint, accurately identify and clarify the facts he deems essential to his legal claims and, in contrast to his multiple filings to date, present his facts and claims in a single coherent pleading with all pertinent exhibits attached. Plaintiff's legal claims should reflect application of the legal authority identified and set forth in the Magistrate Judge's screening order.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed November 7, 2016, (ECF No. 13), are adopted in full;
2. Plaintiff's requests for immediate court intervention, ECF Nos. 4 and 9, are denied; and
3. Plaintiff shall, within thirty days after the filing date of this order, file his proposed First Amended Complaint.

Dated: January 4, 2017




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Troy L. Nunley  
United States District Judge