

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

HERBERT JOHNSON,  
Plaintiff,  
v.  
ROBERT W. FOX,  
Defendant.

No. 2:16-cv-2492 JAM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. Upon screening, the court found plaintiff’s complaint failed to allege a potentially cognizable claim for relief against any defendant. (ECF No. 26.) Plaintiff was given the opportunity to file an amended complaint. In March 2017, plaintiff requested a sixty-day extension of time to file an amended complaint. The court granted that request on March 20, 2017. (ECF No. 30.)

In a letter filed here on May 15, 2017, plaintiff requested the court close this case. On June 8, 2017, the undersigned recommended this action be dismissed based on plaintiff’s request. Plaintiff filed objections to that recommendation. In his objections, plaintiff expresses some confusion about what dismissal of this case means. Plaintiff is advised that a dismissal without prejudice means this case would be closed but that plaintiff may file a new case with the same allegations at a later date. As far as the court can discern, dismissal without prejudice is not what


1 plaintiff seeks. It appears that plaintiff seeks another extension of time to file an amended  
2 complaint based on the facts that plaintiff does not have his legal property because he was placed  
3 in segregated housing.

4 The court finds plaintiff has established good cause for an extension of time to file an  
5 amended complaint. Plaintiff is advised that if he has not received his legal materials within that  
6 time, he shall so inform the court.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The findings and recommendations filed June 8, 2017 (ECF No. 32) are vacated.
- 9 2. Within sixty days of the date of this order, plaintiff shall either: (a) file an amended  
10 complaint in compliance with the court's March 2, 2017 order, or (b) advise the court  
11 that he still does not have possession of his legal materials.
- 12 3. The Clerk of the Court is directed to provide plaintiff a copy of the court's March 2,  
13 2017 order (ECF No. 26) and a copy of the prisoner complaint form used in this  
14 district.

15 Dated: June 29, 2017

16  
17  
18   
19 DEBORAH BARNES  
20 UNITED STATES MAGISTRATE JUDGE

21 DLB:9  
22 DLB1/prisoner-civil rights/john2492.fr vac  
23  
24  
25  
26  
27  
28