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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRENCE VAIL,
Plaintiff,
v.
CITY OF SACRAMENTO,
Defendant.

No. 2:16-cv-2673 DB PS

ORDER

By order signed February 6, 2018, plaintiff’s complaint was dismissed and plaintiff was granted leave to file an amended complaint that cured the defects noted in that order.¹ (ECF No. 26.) Plaintiff was granted twenty-eight days from the date of that order to file an amended complaint and was specifically cautioned that the failure to respond to the court’s order in a timely manner could result in this action being dismissed. On March 30, 2018, plaintiff’s request for a twenty-eight day extension of time to file an amended complaint was granted. (ECF No. 28.) Again plaintiff was cautioned that the failure to timely comply with that order could result in the dismissal of this action.

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¹ The parties have consented to Magistrate Judge jurisdiction over this action pursuant to 28 U.S.C. § 636(c)(1). (ECF No. 12.)

1 On May 11, 2018, after the twenty-eight day period had expired and plaintiff had not
2 responded to the court's order in any manner, the court issued plaintiff an order to show cause as
3 to why this action should not be dismissed due to a lack of prosecution. (ECF No. 29.) On May
4 24, 2018, plaintiff filed a response. (ECF No. 30.) Therein, plaintiff asserts, in part, that he was
5 incarcerated for some period of time which delayed his ability to comply with the court's orders.²
6 (Id. at 1.)


7 Every plaintiff in federal court has a responsibility to prosecute his
8 action diligently. Failure to do so may permit the district court to
9 dismiss. Incarceration does not absolve a plaintiff of this
responsibility.

10 Collins v. Pitchess, 641 F.2d 740, 742 (9th Cir. 1981). Nonetheless, in light of plaintiff's pro se
11 status, the court will provide plaintiff a final opportunity to comply with the court's orders.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The May 11, 2018 order to show cause (ECF No. 29) is discharged;
- 14 2. Plaintiff shall file an amended complaint within twenty-one (21) days of the date of
15 this order³; and
- 16 3. Plaintiff is cautioned that the failure to timely comply with this order may result in the
17 dismissal of this action.

18 Dated: May 31, 2018

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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26 ² On May 25, 2018, defendant filed an objection asserting, in part, that plaintiff was incarcerated
from only February 16, 2018, to March 6, 2018. (ECF No. 31 at 2.)

27 ³ Alternatively, if plaintiff no longer wishes to pursue this action plaintiff may file a notice of
28 voluntary dismissal of this action pursuant to Rule 41 of the Federal Rules of Civil Procedure.