

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 ARMANDO HERRERA,  
12 Plaintiff,

13 v.

14 GRAY,  
15 Defendant.  
16

No. 2: 17-cv-0765 KJN P

ORDER

17 Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant  
18 to 42 U.S.C. § 1983. On May 12, 2017, the undersigned dismissed plaintiff's complaint with  
19 leave to amend. (ECF No. 10.) On May 24, 2017, plaintiff filed a request for voluntary dismissal  
20 of this action. (ECF No. 16.) However, on May 31, 2017, plaintiff filed a complaint which may  
21 be an amended complaint. (ECF No. 17.)

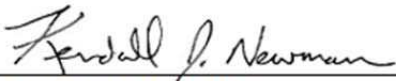
22 The only named defendant in the original complaint is law librarian Gray. The amended  
23 complaint names Law Librarian Staff Diaz and Correctional Officer Palur as defendants. Plaintiff  
24 alleges that defendants Diaz and Palur told plaintiff that they would "set him up" for filing a  
25 lawsuit against defendant Gray.

26 Plaintiff is directed to inform the court whether he wishes to dismiss the instant action or  
27 proceed on the amended complaint filed May 31, 2017, naming Diaz and Palur as defendants.

28 ///

1 Accordingly, IT IS HEREBY ORDERED that within ten days of the date of this order,  
2 plaintiff shall inform the court whether he wishes to dismiss this action or proceed on the  
3 amended complaint filed May 31, 2017.

4 Dated: June 21, 2017

5   
6 KENDALL J. NEWMAN  
7 UNITED STATES MAGISTRATE JUDGE

8 Her765.cla

9 kc