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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID REYES,  
Plaintiff,  
v.  
A. YOUNG, et al.,  
Defendants.

No. 2:17-cv-0966 GEB KJN P

ORDER

On May 12, 2017, the undersigned issued an order screening plaintiff’s complaint. (ECF No. 7.) The undersigned found that plaintiff had stated potentially colorable claims for relief against defendants Young, Rock, Nasser and Gamboa. The undersigned dismissed the claims against defendants Linde, Austin, Moeckly, Cherry, Rogers and Knipp with leave to amend.

On June 12, 2017, plaintiff filed a motion for an extension of time to file an amended complaint. (ECF No. 11.) On June 22, 2017, the undersigned granted plaintiff a thirty days extension of time to file an amended complaint. (EF No. 14.) On July 5, 2017, this order was returned unserved because plaintiff was “out to medical.” On July 18, 2017, the Clerk of the Court re-served the June 22, 2017 order on plaintiff.

Thirty days passed from July 18, 2017, and plaintiff did not file an amended complaint or otherwise respond to the June 22, 2017 order. Accordingly, on September 13, 2017, the undersigned recommended that this action be dismissed. (ECF No. 15.)

1 On October 2, 2017, plaintiff filed a motion for an extension of time to file objections to  
2 the findings and recommendations. (ECF No. 16.) In this pleading, plaintiff states that he is  
3 having difficulty obtaining medication for body pain. Plaintiff also alleges that he has been  
4 “waylaid” with medical difficulties.


5 Because it appears that plaintiff intends to prosecute this action, the findings and  
6 recommendations are vacated. Plaintiff is granted thirty days from the date of this order to file an  
7 amended complaint. In the alternative, plaintiff may opt to proceed with the potentially colorable  
8 claims against defendants Young, Rock, Nasser and Gamboa in the original complaint.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The September 13, 2017 findings and recommendations (ECF No. 15) are vacated;
- 11 2. Plaintiff’s October 2, 2017 motion for extension of time (ECF No. 16) is denied as  
12 unnecessary;
- 13 3. Plaintiff is granted thirty days from the date of this order to file either an amended  
14 complaint or notice that he intends to proceed on the potentially colorable claims against  
15 defendants Young, Rock, Nasser and Gamboa in the original complaint; if plaintiff opts to  
16 proceed on his claims against defendants Young, Rock, Nasser and Gamboa, the court will send  
17 plaintiff the forms necessary to effect service.

18 Failure to respond to this order will result in a recommendation of dismissal of this action.

19 Dated: October 5, 2017

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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