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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAIME BELTRAN,

Plaintiff,

v.

ERIC R. BAKER, et al.,

Defendants.

No. 2:17-cv-1520 TLN AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed December 4, 2019, plaintiff was given the option of either proceeding immediately against defendants Cross, Tran, Baker, Swett, Smith, and Guerra on his claim for failing to protect him by not intervening while he was being assaulted and delaying their response after the assault ended, or amending the complaint. ECF No. 10 at 8. Plaintiff was advised that proceeding without amending the complaint would constitute a voluntary dismissal without prejudice of his claim that defendants failed to protect him by failing to prevent the assault, and he was given fourteen days to notify the court how he wanted to proceed. Id. Fourteen days have now passed and plaintiff has not notified the court how he would like to proceed. He will be given a final opportunity to tell the court whether he wants to proceed on the complaint as screened or try to amend the complaint.

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Accordingly, IT IS HEREBY ORDERED that:

1. Within fourteen days of service of this order, plaintiff shall complete and return the attached form notifying the court whether he wants to proceed on the screened complaint or whether he wants to file a first amended complaint.

2. If plaintiff does not return the attached form, the court will assume that he is choosing to proceed on the complaint as screened and will recommend dismissal without prejudice of the claim that defendants Cross, Tran, Baker, Swett, Smith and Guerra failed to protect him when they failed to prevent an assault by two other inmates.

DATED: December 30, 2019



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
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PLAINTIFF'S NOTICE ON HOW TO
PROCEED

Check one:

Plaintiff wants to proceed immediately on his claim that defendants Cross, Tran, Baker, Swett, Smith and Guerra failed to protect him when they witnessed him being attacked by two other inmates, did not act to stop the assault, and delayed in responding after the assault ended without amending the complaint. Plaintiff understands that by going forward without amending the complaint he is voluntarily dismissing without prejudice his claim that defendants Cross, Tran, Baker, Swett, Smith and Guerra failed to protect him when they failed to prevent the assault by two other inmates.

Plaintiff wants to amend the complaint.

DATED: _____

Jamie Beltran
Plaintiff pro se