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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN J. FUERY,

Plaintiff,

v.

MARK CHERRY, et al.,

Defendants.

No. 2:18-CV-00982-KJM-CKD


ORDER

The court granted plaintiff's request for an additional 30 days to file an amended complaint on September 23, 2019, at the same time holding plaintiff's failure to file either an amended complaint or a noticed motion to stay within 30 days will result in the court dismissing the case without prejudice for failure to prosecute. ECF No. 41. Plaintiff made the request after the court issued an order to show cause why this case should not be dismissed for failure to prosecute, to which plaintiff responded with his ex parte request for the additional 30 days "to complete drafting of the final pleading in this case." *See* ECF Nos. 38, 39. Prior to that, the court had granted plaintiff, who is proceeding pro se, multiple extensions of time to file an amended complaint after granting defendants' motion to dismiss. *See* ECF Nos. 24, 27, 29, 31. The court also ordered plaintiff to show cause why this case should not be dismissed for failure to prosecute on March 4, 2019, which the plaintiff responded to with a "motion for reconsideration." *See*

1 ECF Nos. 32, 33, 34, 35. On April 26, 2019, the court granted plaintiff's motion for
2 reconsideration requesting 30 days to file a motion to stay the case, given plaintiff's disability and
3 cognitive issues. ECF No. 36. As of this date, plaintiff has not responded to the order to show
4 cause dated September 23, 2019 setting a 30-day deadline for plaintiff to file his amended
5 complaint. ECF No. 41. Defendant Hubert Chen has filed a notice of non-receipt of plaintiff's
6 amended complaint. ECF No. 42. In sum, plaintiff has, on numerous occasions, failed to respond
7 to the court's orders intended to move this case towards resolution.

8 IT IS THEREFORE ORDERED that this case is DISMISSED without prejudice
9 for failure to prosecute. FED. R. Civ. P. 41(b).

10 DATED: January 14, 2020.

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14 CHIEF UNITED STATES DISTRICT JUDGE
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