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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VICTOR M. ACUNA,
Plaintiff,
v.
NNENNA IKEGBU, et al.,
Defendants.

Case No. [14-cv-03651-JCS](#) (PR)

ORDER OF DISMISSAL

Plaintiff has failed to file an amended complaint by the deadline. Accordingly, this federal civil rights action is **DISMISSED** without prejudice for failing to respond to the Court's order, and for failure to prosecute, *see* Fed. R. Civ. P. 41(b).¹ Because this dismissal is without prejudice, plaintiff may move to reopen the action. Any such motion **must** contain an amended complaint that addresses the deficiencies specified in the Court's order dismissing the original complaint with leave to amend. (Docket No. 7.)

The Clerk shall enter judgment in favor of defendants, and close the file.

IT IS SO ORDERED.

Dated: February 4, 2015



JOSEPH C. SPERO
Chief United States Magistrate Judge

¹ Plaintiff has consented to magistrate judge jurisdiction. (Docket No. 5.) The magistrate judge, then, has jurisdiction to issue this order, even though defendants have not been served or consented to magistrate judge jurisdiction. *See Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (holding that magistrate judge had jurisdiction to dismiss prison inmate's action under 42 U.S.C. § 1983 as frivolous without consent of defendants because defendants had not been served yet and therefore were not parties).

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 2/4/2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Victor M. Acuna ID: #:D-33299
Pelican Bay State Prison
P.O. Box 7500, Housing: D2-216
Crescent City, CA 95532

Dated: 2/4/2015

Richard W. Wieking
Clerk, United States District Court

By: Karen L. Hom
Karen Hom, Deputy Clerk to the
Honorable JOSEPH C. SPERO