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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VERNE STEERS,
CDCR #V-09166

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS & REHABILITATION, et
al.,

Defendants.

Case No. 07-CV-2339-WQH (JMA)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR LEAVE TO FILE A
SECOND AMENDED COMPLAINT
[Doc. 26]**

On November 17, 2009 nunc pro tunc November 9, 2009, Plaintiff Verne Steers filed a document requesting permission to add a defendant to the case. The Court construes Plaintiff's filing as a motion for leave to file a second amended complaint.

Federal Rule of Civil Procedure 15(a) provides that a party may amend its complaint with leave of court and that "[t]he court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). Accordingly, Plaintiff's motion is **GRANTED**. Plaintiff shall file a Second Amended Complaint by no later than December 10, 2009. Plaintiff is advised that the Second Amended Complaint must be clearly captioned as such and shall be complete in itself without reference to the prior pleadings, and shall contain copies of all exhibits referred to in the Second Amended Complaint. See S.D.

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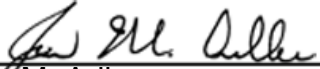
Cal. Civ. L. R. 15.1. All claims not re-alleged in the Second Amended Complaint will be considered waived in accordance with King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Plaintiff should also be notified that if he fails to file a Second Amended Complaint within the time allotted, or if the Second Amended Complaint fails to comply with these general rules of pleading, the First Amended Complaint, already on file with the Court, will be deemed the operative pleading in this matter.

Plaintiff is also advised that upon filing of the Second Amended Complaint, the Court will issue a summons upon the new defendant and will forward it to Plaintiff along with a blank U.S. Marshal Form 285 for this defendant. The deadline to serve the current defendants in this case remains December 14, 2009, as previously ordered.

Finally, with respect to Plaintiff's inquiry regarding the reason why Robert J. Hernandez, Warden was dismissed from this action, the Court refers Plaintiff to the Court's June 23, 2008 Order. The Clerk shall provide Plaintiff with a copy of this Order.

IT IS SO ORDERED.

DATED: November 19, 2009



Jan M. Adler
U.S. Magistrate Judge