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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 SHAWN ANDRE TWYNE,
12 CDCR #F-50770,

Plaintiff,

13 vs.
14

15 BONNIE DUMANIS, et al.,

16 Defendants.
17

Civil No. 10-0747 BEN (WMc)

**ORDER GRANTING PLAINTIFF'S
MOTION FOR EXTENSION
OF TIME TO AMEND**

[Doc. No. 4]

18 Shawn Andre Twyne ("Plaintiff"), who is currently incarcerated at the Mountain Home
19 Conservation Camp in Springville, California, is proceeding pro se and has initiated this civil
20 action pursuant to 42 U.S.C. § 1983. At the time he filed his Complaint, Plaintiff did not prepay
21 the \$350 filing fee mandated by 28 U.S.C. § 1914(a); instead, he filed a Motion to Proceed *In*
22 *Forma Pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a) [Doc. No. 2].

23 On April 14, 2010, the Court granted Plaintiff's IFP Motion, but dismissed his Complaint
24 pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). *See* April 14, 2010 Order [Doc. No. 3].
25 Plaintiff was granted 45 days leave, however, to amend his pleading. *Id.* at 8; *see also Lopez v.*
26 *Smith*, 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc) ("[A] district court should grant leave
27 to amend even if no request to amend the pleading was made, unless it determines that the
28 pleading could not possibly be cured.") (citations omitted).)

1 On May 24, 2010, Plaintiff submitted a Motion requesting an extension of time in which
2 to file his Amended Complaint [Doc. No. 4].

3 **I. STANDARD OF REVIEW**

4 This is Plaintiff's first request for an extension of time, he is proceeding without counsel
5 and his request is timely. See *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir.
6 1990) (court has a "duty to ensure that pro se litigants do not lose their right to a hearing on the
7 merits of their claim due to ... technical procedural requirements."). Thus, the Court finds good
8 cause to grant Plaintiff's request. "'Strict time limits ... ought not to be insisted upon' where
9 restraints resulting from a pro se ... plaintiff's incarceration prevent timely compliance with court
10 deadlines." *Eldridge v. Block*, 832 F.2d 1132, 1136 (9th Cir. 1987) (citing *Tarantino v. Eggers*,
11 380 F.2d 465, 468 (9th Cir. 1967); see also *Bennett v. King*, 205 F.3d 1188, 1189 (9th Cir. 2000)
12 (reversing district court's dismissal of prisoner's amended pro se complaint as untimely where
13 mere 30-day delay was result of prison-wide lockdown).

14 **II. CONCLUSION AND ORDER**

15 Accordingly, the Court hereby **GRANTS** Plaintiff's Motion to Extend Time to file an
16 Amended Complaint [Doc. No. 4]. Plaintiff's Amended Complaint, should he elect to file one,
17 must be received by the Court no later than **Monday, July 12, 2010**. Moreover, Plaintiff is
18 cautioned that his Amended Complaint must address *all* the deficiencies of pleading previously
19 identified in the Court's April 14, 2010 Order [Doc. No. 3], and must be complete in itself
20 without reference to his original pleading. See S.D. CAL. CIVLR 15.1; *Hal Roach Studios, Inc.*
21 *v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). If Plaintiff chooses *not* to
22 file a Amended Complaint by July 12, 2010, this action shall remain dismissed for failing to state
23 a claim pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b) and without further Order of the
24 Court.

25 IT IS SO ORDERED.

26
27 DATED: 5/27/2010

28 
HON. ROGER T. BENITEZ
United States District Judge