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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JOHN ROETTGEN,  
Plaintiff,  
v.  
D. PARAMO, ET AL.,  
Defendant.

Case No.: 3:16-cv-01806-LAB-BGS  
**ORDER: (1) DENYING MOTION TO REINSTATE CASE; AND (2) GRANTING MOTION FOR EXTENSION OF TIME TO FILE FIRST AMENDED COMPLAINT**

**I. Procedural History**

Plaintiff, an inmate currently incarcerated at the Richard J. Donovan Correctional Facility, initially filed this action on July 11, 2016. (ECF No. 1.) On July 21, 2016, this Court granted Plaintiff’s Motion to Proceed In Forma Pauperis (“IFP”) and dismissed his Complaint (“FAC”) pursuant to 28 U.S.C. § 1915(e)(2). (ECF No. 3.) The Court found a number of deficiencies in his pleading but nevertheless, Plaintiff was granted forty-five (45) days leave to file an amended complaint. (Id. at 10-11.)

On February 13, 2017, nearly seven months after the Court dismissed this action, Plaintiff has filed a “Motion for Copy of Court Order, Reinstate Case and for 45 days in which to file First Amended Complaint.” (ECF No. 5.)

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1 Plaintiff claims that he never received the Court's July 21, 2016 Order. (See Pl.'s  
2 Mot. at 1-2.) Based on Plaintiff's allegations, the Court finds good cause to grant  
3 Plaintiff an extension of time in which to comply with its July 21, 2016 Order. "Strict  
4 time limits ... ought not to be insisted upon' where restraints resulting from a pro se ...  
5 plaintiff's incarceration prevent timely compliance with court deadlines." Eldridge v.  
6 Block, 832 F.2d 1132, 1136 (9th Cir. 1987) (citing Tarantino v. Eggers, 380 F.2d 465,  
7 468 (9th Cir. 1967); see also Bennett v. King, 205 F.3d 1188, 1189 (9th Cir. 2000).

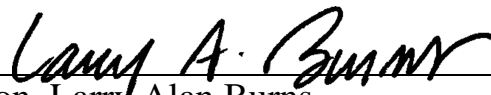
8 However, the Court will not "reinstate" this case at this time. If Plaintiff files an  
9 amended pleading within forty-five (45) days, the Court will reopen the matter. If  
10 Plaintiff fails to comply the Court's Order within this timeframe, the Court will enter a  
11 final order of dismissal.

### 12 **Conclusion and Order**

13 Accordingly, the Court hereby DENIES Plaintiff's Motion to Reinstate this matter  
14 but GRANTS Plaintiff an extension of time to file a First Amended Complaint. Plaintiff  
15 is granted forty-five (45) days leave from the date this Order is "Filed" in which to file a  
16 First Amended Complaint which cures all the deficiencies of pleading noted in the  
17 Court's July 21, 2016 Order. Plaintiff is once again cautioned that should he elect to  
18 amend, his Amended Complaint must be complete in itself, that it will supersede his  
19 original Complaint, and that any claim not re-alleged against any Defendant previously  
20 named will be considered waived. See S.D. Cal. CivLR 15.1; King v. Atiyeh, 814 F.2d  
21 565, 567 (9th Cir. 1987).

22 The Clerk of Court is directed to mail Plaintiff a copy of the Court's docket along  
23 with a copy of the July 21, 2016 Order.

24  
25 Dated: April 5, 2017

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28 Hon. Larry Alan Burns  
United States District Judge