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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH LANARR McINTOSH,
CDCR #AU-3829

Plaintiff,

v.

SAN DIEGO COUNTY SHERIFF’S
DEP’T, et al.,

Defendants.

Case No.: 3:17-CV-946-JLS-PCL

**ORDER: (1) GRANTING MOTION
FOR ORDER TO PROVIDE
COPIES; AND (2) SUA SPONTE
GRANTING EXTENSION OF TIME
TO FILE FIRST AMENDED
COMPLAINT**

I. Procedural History

On May 5, 2017, Plaintiff filed a civil rights Complaint pursuant to 42 U.S.C. § 1983, along with a Motion to Proceed *in forma pauperis* (“IFP”) and a Motion to Appoint Counsel. (ECF Nos. 1–3.) The Court granted Plaintiff’s Motion to Proceed IFP, denied his Motion to Appoint Counsel and dismissed his Complaint for failing to state a claim upon which relief could be granted. (ECF No. 6.) Plaintiff was given forty-five (45) days leave to file an amended pleading in order to correct the deficiencies of pleading identified in the Court’s Order. (*Id.*)

However, instead of filing an amended complaint, Plaintiff has filed a “Motion for Order to Provide Plaintiff with a copy of Exhibits,” (ECF No. 8), as well as a second Motion

1 requesting the same relief, (ECF No. 10).

2 **II. Plaintiff’s Motion**

3 In his Motion, Plaintiff claims that he did not photocopy the documents he attached
4 to his Complaint as Exhibits when he mailed his Complaint to the Court. (Pl.’s Mot. at 1.)
5 Thus, Plaintiff requests that the Clerk of Court “provide me with copies of my original
6 documents and exhibits.” (*Id.*)

7 Absent some plausible allegation of a violation of his right to access to the courts,
8 *Silva v. Di Vittorio*, 658 F.3d 1090, 1101–02 & n.8 (9th Cir. 2011), “numerous courts have
9 rejected any constitutional right to free and unlimited photocopying.” *Sands v. Lewis*, 886
10 F.2d 1166, 1169 (9th Cir. 1990), *overruled on other grounds by Lewis v. Casey*, 518 U.S.
11 343, 351 (1996); *see also Jones v. Franzen*, 697 F.2d 801, 803 (7th Cir. 1983) (“[B]road
12 as the constitutional concept of liberty is, it does not include the right to xerox.”).

13 Plaintiff’s IFP status does not require the Court to front the costs of his elective civil
14 litigation, other than to permit the commencement of his suit without full prepayment of
15 filing fees and to authorize the service of process. *See Hadsell v. Comm’r Internal Revenue*
16 *Serv.*, 107 F.3d 750, 752 (9th Cir. 1997); *Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993)
17 (28 U.S.C. § 1915 does not waive payment of fees or expenses for witnesses); *Tedder v.*
18 *Odel*, 890 F.2d 210, 211-12 (9th Cir. 1989) (per curiam); *see also Tabron v. Grace*, 6 F.3d
19 147, 159 (3d Cir. 1993) (court is not authorized “to commit federal monies for payment of
20 necessary expenses in a civil suit brought by an indigent litigant.”).

21 However, in order to ensure Plaintiff’s ability to meaningfully respond to the Court’s
22 September 28, 2017 Order and prepare an amended complaint, and in light of his continued
23 pro se status, the Court shall, in an abundance of caution, direct the Clerk of Court to
24 provide Plaintiff with a copy of his Complaint, including all exhibits, (*see* ECF No. 1). No
25 further photocopies will be provided by the Court absent extraordinary circumstances.

26 **III. Conclusion and Order**

27 For the reasons set forth above,

28 1) The Court **GRANTS** Plaintiff’s Motion, (ECF No. 8) hereby **DIRECTS** the

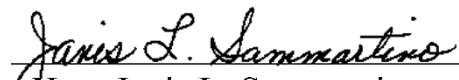
1 Clerk of Court to provide Plaintiff with photocopies of Plaintiff's Complaint, including all
2 exhibits, (*see* ECF No. 1). Because the Court grants Plaintiff's December 14, 2017 Motion
3 it also **DENIES AS MOOT** Plaintiff's January 24, 2018 Motion, (ECF No. 10), which
4 requests the same relief.

5 2) The Court also, sua sponte, **GRANTS** Plaintiff an extension of time to file a
6 First Amended Complaint. Plaintiff **SHALL** file an Amended Complaint which cures all
7 the deficiencies of pleading noted in the Court's September 28, 2017 Order, (ECF No. 6.),
8 on or before forty-five (45) days from the date this Order is published.

9 If Plaintiff fails to file an Amended Complaint within this time frame, the Court will
10 issue an Order dismissing the entire action for the reasons set forth in the September 28,
11 2017 Order and for failing to comply with a Court Order.

12 **IT IS SO ORDERED.**

13 Dated: January 25, 2018


14 Hon. Janis L. Sammartino
15 United States District Judge
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