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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 LANCE WILLIAMS,  
12 CDCR #AG-2394,

Plaintiff,

13  
14 vs.

15 O. ORTEGA, et al.,

Defendants.  
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Case No.: 3:18-cv-00547-LAB-MDD

**ORDER REQUIRING PLAINTIFF  
TO PROSECUTE HIS CLAIMS**

18 On December 11, Plaintiff Lance Williams filed his first amended complaint against  
19 Defendants Bowman, Bustos, Kimani, Lewis, Melgoza (erroneously sued as Malagoza),  
20 Ortega, and Valencia. All claims against Melgoza were dismissed, and Melgoza was  
21 dismissed as a party. But the amended complaint includes claims against Melgoza back,  
22 and again names Melgoza as a Defendant. All claims against Melgoza in the amended  
23 complaint are **DEEMED STRICKEN**, and Melgoza need not respond to them or any more  
24 claims in this action.

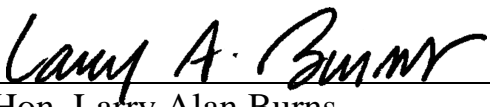
25 Another problem is that although Defendants Bowman, Bustos, Lewis, Ortega, and  
26 Valencia appeared, they have not filed an answer or moved for dismissal of the claims  
27 against them. They joined in the motion to dismiss (Docket no. 26), but that motion only  
28 requested dismissal of claims against Kimura and Melgoza. Williams has not requested

1 entry of default against the other Defendants. *See* Fed. R. Civ. P. 55(a). Other than filing  
2 and serving his complaint, he has taken no other steps to prosecute his claims against them.  
3 For example, he did not request an entry of default against them, *see* Fed. R. Civ. P. 55(a),  
4 or move for default judgment. *See* Fed. R. Civ. P. 55(b)(2). Fed. R. Civ. P. 41(b) requires  
5 plaintiffs to prosecute their claims with reasonable diligence. Although the Court will not  
6 lightly dismiss a prisoner’s claims for failure to prosecute, *Hernandez v. Whiting*, 881 F.2d  
7 768, 771 (9<sup>th</sup> Cir. 1989), this requirement applies even to prisoners. *Collins v. Pitchess*,  
8 641 F.2d 740, 742 (9<sup>th</sup> Cir. 1981) (“Every plaintiff in federal court has a responsibility to  
9 prosecute his action diligently . . . . Incarceration does not absolve a plaintiff of this  
10 responsibility.”)

11 **Williams should either dismiss his claims against these Defendants, or**  
12 **immediately begin prosecuting his claims against them. If he does not, these claims**  
13 **may be dismissed for failure to prosecute.**

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15 **IT IS SO ORDERED.**

16 Dated: February 21, 2020

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19 Hon. Larry Alan Burns  
20 Chief United States District Judge  
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