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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ERIC MARTIN,

Plaintiff,

v.

DAVID WINETT, et al.,

Defendants.

CASE NO. 1:04-cv-05358-LJO-BAM PC

ORDER DISREGARDING SECOND AMENDED COMPLAINT

(ECF No. 34)

Plaintiff Eric Martin (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on March 1, 2004. On May 5, 2005, the first amended complaint was screened and Plaintiff was ordered to submit service documents. Plaintiff filed a second amended complaint on June 16, 2005, alleging only those claims found to be cognizable in the screening order. On July 14, 2005, an order issued directing the United States Marshal to serve the second amended complaint. Following resolution of Defendants’ motion for summary judgment, this action was dismissed and judgment was entered on March 7, 2008.

On April 4, 2008, Plaintiff filed a notice of appeal regarding the judgment and order dismissing this action. On March 25, 2010, the United States Court of Appeals for the Ninth Circuit issued an order affirming the granting of Defendants’ motion for summary judgment, but finding that Plaintiff’s Eighth Amendment claim against Defendant Winett and Due Process claims against Defendants Johnson, Stainer, and Winett had been improperly dismissed at the screening stage, and the action was remanded for further consideration of those claims.

