UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ELONZA JESSE TYLER,

Plaintiff,

v.

EDWARD ALAMEIDA, et al.,

Defendants.

/

CASE NO. 1:04-cv-06638-LJO-SMS PC

ORDER DENYING MOTION TO MODIFY SCHEDULING ORDER, WITHOUT PREJUDICE, AS MOOT

(Doc. 126)

This is a civil rights action filed pursuant to 42 U.S.C. § 1983 by Plaintiff Elonza Jesse Tyler, a state prisoner proceeding pro se and in forma pauperis. On March 25, 2010, Defendants Erly and Smith filed a motion seeking to modify the schedule order. Fed. R. Civ. P. 16(b). In light of the Court's recommendation that Plaintiff's amended complaint be dismissed, with leave to amend, Defendants' motion to modify the scheduling order is moot. If the second amended complaint is found to state cognizable claims, Defendant Erly will be required to respond and the Court will issue an amended scheduling order at the appropriate juncture.

Accordingly, Defendants' motion to modify the scheduling order is HEREBY DENIED as moot.

IT IS SO ORDERED.

Dated: June 16, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE

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