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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN,

Plaintiff,

v.

BRYANT,

Defendant.

CASE NO. 1:06-cv-00906-SMS PC

ORDER STRIKING SECOND AMENDED COMPLAINT

(ECF No. 49)

TWENTY DAY DEADLINE

Plaintiff Russell Martin (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On February 24, 2011, an order issued granting Defendant’s motion for summary judgment and dismissing Plaintiff’s complaint for failure to state a claim. Plaintiff was informed that, if he wished to file an amended complaint, he would need to file a motion for leave to amend and an amended complaint within thirty days. On March 31, 2011, Plaintiff was granted an additional thirty days to file his motion and amended complaint. Plaintiff filed a second amended complaint on May 9, 2011, however did not file a motion for leave to amend. In the order issued dismissing the complaint, Plaintiff was instructed that his motion seeking leave to amend must specifically identify the additional facts or legal theories plead in his amended complaint and explain how those facts or theories cure the deficiencies in the order issued February 24, 2011. Since Plaintiff has failed to file a motion requesting leave to amend in compliance with the order the second amended complaint shall be stricken from the record.

Accordingly, it is HEREBY ORDERED that:

- 1. Plaintiff’s second amended complaint is STRICKEN from the record;

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- 2. Plaintiff is granted twenty days from the date of service of this order to file a motion for leave to amend and an amended complaint. Plaintiff is advised that no further extensions of time shall be granted; and
- 3. Failure to comply with this order shall result in the action being dismissed, with prejudice, for failure to state a claim.

IT IS SO ORDERED.

Dated: June 24, 2011

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE