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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK GONZALES,

Plaintiff,

vs.

1: 06 cv 01420 AWI MJS PC

ORDER DENYING MOTION  
TO CONSOLIDATE

(Doc. 38)

MATTHEW CATE, et al.,

Defendants.

Plaintiff is a former state prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is Plaintiff’s motion to consolidate this action with case number 1:06 cv -1567 AWI WMW PC.

This action was initiated by civil complaint filed by the Plaintiff in this case and inmate Jason Saunders. Both Plaintiffs were incarcerated at the time the complaint was filed. An order was entered, severing the two actions. This action proceed with Plaintiff Gonzales as the Plaintiff and a separate action was opened with inmate Saunders as the Plaintiff. That action was assigned case number 1:06 cv 01567 AWI WMW PC.

On April 6, 2010, an order was entered in case number 1:06 cv 01567, dismissing the

1 action for Plaintiff Saunder's failure to prosecute. Plaintiff Saunders was not authorized to  
2 proceed in forma pauperis, as he has suffered three dismissals as "strikes" pursuant to 28 U.S.C.  
3 § 1915(g). Plaintiff Saunders was provided an opportunity to submit the \$350 filing fee in full.  
4 He failed to do so, and his case was dismissed for failure to prosecute pursuant to Local Rule  
5 110. As that case has been closed and is no longer pending, the motion to consolidate this case  
6 with case number 1:06 cv 01567 AWI WMW PC is moot.

7 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion to consolidate is denied.

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10 IT IS SO ORDERED.

11 **Dated: May 6, 2010**

**/s/ Michael J. Seng**  
**UNITED STATES MAGISTRATE JUDGE**