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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILLIAM NIBLE,

Plaintiff,

v.

M. KNOWLES, et al.,

Defendants.

CASE NO. 1:06-CV-01716-DLB PC

ORDER DENYING PLAINTIFF’S MOTION
TO AMEND COMPLAINT (DOC. 60)

Plaintiff William Nible (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s second amended complaint, filed July 21, 2009, against Defendant E. Flores for violation of the First Amendment. On July 21, 2011, Plaintiff filed a motion to amend his complaint. Doc. 60. On August 8, 2011, Defendant filed his opposition. Doc. 62. The matter is submitted pursuant to Local Rule 230(l).

Plaintiff alleges that Defendant E. Flores Plaintiff moves to amend his pleadings to include allegations for his entire period of incarceration at Kern Valley State Prison, from the alleged events in 2006 to the present. Defendant opposes the motion.

On September 9, 2010, the Court issued a Discovery and Scheduling Order. The Court set March 9, 2011 as the deadline to amend the pleadings . Doc. 45. Plaintiff is effectively seeking to modify the discovery and scheduling order. The decision to modify a scheduling order is within the broad discretion of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975

1 F.2d 604, 607 (9th Cir. 1992) (quoting *Miller v. Safeco Title Ins. Co.*, 758 F.2d 364, 369 (9th Cir.
2 1985)). Pursuant to Federal Rule of Civil Procedure 16, a pretrial scheduling order “shall not be
3 modified except upon a showing of good cause,” and leave of court. Fed. R. Civ. P. 16(b)(4);
4 *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087-88 (9th Cir. 2002). Although “the existence
5 or degree of prejudice to the party opposing the modification might supply additional reasons to
6 deny a motion, the focus of the inquiry is upon the moving party’s reasons for seeking
7 modification.” *Johnson*, 975 F.2d at 609.

8 Here, Plaintiff has failed to demonstrate good cause. Plaintiff’s motion to amend his
9 pleadings was filed four months after the deadline.¹ Plaintiff has not presented good cause to
10 modify the Court’s schedule.

11 Based on the foregoing, it is HEREBY ORDERED that Plaintiff’s motion to amend, filed
12 July 21, 2011, is DENIED.

13 IT IS SO ORDERED.

14 Dated: August 30, 2011

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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27 ¹ Based on Plaintiff’s motion to compel, Plaintiff was under the misconception that
28 because his action was ongoing, it automatically encompassed events that occurred after the
events plead. As explained in the Court’s June 1, 2011 order, Plaintiff is incorrect. Doc. 54.