UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

JOHN TILTON, et al.,

Defendants.

/

CASE NO. 1:07-cv-00493-AWI-DLB PC

ORDER DISREGARDING MOTION TO AUGMENT RECORD ON APPEAL

(Doc. 60)

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. Section 1983. On March 12, 2009, this Court issued an order denying Plaintiff's motions for a temporary restraining order and preliminary injunctive relief. On March 19, 2009 Plaintiff filed a notice of appeal.

Now pending before the Court is Plaintiff's motion entitled "Motion to Augment the Record on Appeal". (Doc. 60). Plaintiff requests leave to "augment the record on appeal, to prosecute the violation of my rights and the damages I have sustained since first filing the appeal." (Id., p1:24-26).[1]

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[1] To the extent that Plaintiff is seeking leave to amend his complaint, the filing of a notice of appeal divests a district court of jurisdiction to determine the "substantial rights" at issue in an action during the pendency of the appeal, Pyrodyne Corp. v. Pyrotronics Corp., 847 F. 2d 1398, 1403 (9th Cir. 1988); See also Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58, 103 S.Ct. 400, 74 L.Ed.2d 225 (1982) (per curiam).

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This motion is more properly brought before the Court of Appeals. Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to augment the record on appeal is DISREGARDED by this Court.

IT IS SO ORDERED.

Dated: **April 28, 2009** /s/ **Dennis L. Beck**
UNITED STATES MAGISTRATE JUDGE