

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CLARENCE E. HOWARD,

1:07-cv-00988-OWW-GSA-PC

Plaintiff,

ORDER STRIKING PLAINTIFF'S SURREPLY

V.

(Doc. 47.)

W. J. SULLIVAN, et al.,

Defendants.

Clarence E. Howard (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff commenced this action on July 7. (Doc. 1.) This action now proceeds on the Second Amended Complaint filed on May 18, against defendant Dr. Kamel (“Defendant”), on Plaintiff’s due process claim.¹ (Doc. 31.)

On May 5, 2010, Defendant filed a motion to dismiss this action for failure to exhaust remedies. (Doc. 40.) Plaintiff filed an opposition on July 8, 2010, and Defendant filed a reply on July 15, 2010. (Docs. 45, 46.) On August 3, 2010, Plaintiff filed a surreply. (Doc. 47.)

The Local Rules provide for a motion, an opposition, and a reply. Neither the Local Rules nor the Federal Rules provide the right to file a surreply, and the Court neither requested one nor granted a request on the behalf of Plaintiff to file one. Accordingly, Plaintiff's surreply, filed August 3, 2010, shall be stricken from the record.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's surreply, filed August 3, 2010, is STRICKEN from the Court's record.

¹ Plaintiff only named one defendant, Dr. Kamel, in the Second Amended Complaint. (Doc. 31.) All claims, except for Plaintiff's due process claim, were dismissed from this action by the Court on November 10, 2009, for Plaintiff's failure to state a claim. (Doc. 34.)

1 IT IS SO ORDERED.
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Dated: November 16, 2010

/s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE