

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

RODNEY GRAVES BEY,

1:08-cv-01718-LJO-GSA-PC

Plaintiff,

ORDER STRIKING PLAINTIFF'S SURREPLY

v.

(Doc. 74.)

WARDEN A. HEDGEPEETH, et al.,

Defendants.

\_\_\_\_\_/

Rodney Graves Bey ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff commenced this action on November 5, 2008. (Doc. 1.) This action now proceeds on the First Amended Complaint filed on May 11, 2009, against defendant C/O Spry ("Defendant") for retaliation in violation of the First Amendment.<sup>1</sup>

On June 16, 2010, Defendant filed a motion to dismiss this action for failure to exhaust remedies. (Doc. 64.) Plaintiff filed an opposition on July 13, 2010, and Defendant filed a reply on July 21, 2010. (Docs. 68, 70.) On August 11, 2010, Plaintiff filed a surreply. (Doc. 74.)

\_\_\_\_\_  
<sup>1</sup> All other claims and defendants were dismissed from this action by the Court on December 3, 2009. (Doc. 44.)

1 The Local Rules provide for a motion, an opposition, and a reply. Neither the Local Rules  
2 nor the Federal Rules provide the right to file a surreply, and the Court neither requested one nor  
3 granted a request on the behalf of Plaintiff to file one. Accordingly, Plaintiff's surreply, filed August  
4 11, 2010, shall be stricken from the record.

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

7  
8 IT IS SO ORDERED.

9 **Dated: November 19, 2010**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE