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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SY LEE CASTLE,	CASE NO. 1:08-cv-01754-AWI-SMS
Plaintiff,	ORDER STRIKING PLAINTIFF’S SECOND
v.	AMENDED COMPLAINT
	(ECF No. 55)
A. HEDGPETH, et al.,	
Defendants.	

Plaintiff Sy Lee Castle (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the first amended complaint, filed May 12, 2009, against Defendants Hedgpeth, Marta, and Amavisca for a violation of Plaintiff’s First Amendment right to free exercise of religion. On December 6, 2010, a second amended complaint was lodged. (ECF No. 55.)

Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party’s pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). “Rule 15(a) is very liberal and leave to amend ‘shall be freely given when justice so requires.’” Amerisource Bergen Corp. v. Dialysis West, Inc., 465 F.3d 946, 951 (9th Cir. 2006) (quoting Fed. R. Civ. P. 15(a)). However, courts “need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in the litigation; or (4) is futile.” Id. The factor of “[u]ndue delay by itself . . . is insufficient to justify denying a motion to amend.” Owens v.

1 Kaiser Foundation Health Plan, Inc., 244 F.3d 708, 712,13 (9th Cir. 2001) (quoting Bowles v. Reade,
2 198 F.3d 752, 757-58 (9th Cir. 1999)).

3 Plaintiff has previously filed an amended complaint and an answer has been filed. Plaintiff
4 did not file a motion to amend, nor has the Court granted leave to amended. Therefore, it is
5 HEREBY ORDERED that the amended complaint, lodged December 6, 2010, is STRICKEN from
6 the record.

7
8 IT IS SO ORDERED.

9 **Dated: June 8, 2011**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE