

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BRYAN E. RANSOM,

Plaintiff,

v.

J. MARTINEZ, et al.,

Defendants.

CASE NO. 1:08-cv-01812-AWI-GBC PC

ORDER DENYING PLAINTIFF’S MOTION  
TO AMEND OPPOSITION AND/OR  
REQUEST TO SUBMIT SURREPLY  
(Doc. 32)

ORDER STRIKING PLAINTIFF’S  
AMENDMENT TO OPPOSITION AND/OR  
SURREPLY  
(Doc. 33)

ORDER STRIKING DEFENDANTS’  
SURREPLY  
(Doc. 35)

Plaintiff Bryan E. Ransom (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On August 9, 2010, Defendants filed a motion to revoke Plaintiff’s in forma pauperis status. (Doc. 24). On August 20, 2010 Plaintiff submitted an opposition and on August 27, 2010, Defendants filed a reply. (Docs. 29 & 31). On September 7, 2010, Plaintiff filed a motion to “amend Plaintiff’s opposition” and Plaintiff submitted an “amendment” and/or surreply raising an imminent danger claim never before presented to the court. (Docs. 32 & 33). On September 14, 2010, Defendants have submitted a surreply to Plaintiff’s September 7, 2010 “amendment” and or surreply. (Docs. 35).

///

///

1 Plaintiff and Defendants do not have a right to file a surreply under the Local Rules  
2 or the Federal Rules of Civil Procedure. Plaintiff cannot now add a never before presented imminent  
3 danger claim in this action in an attempt to prevent revocation of his in forma pauperis status. See  
4 e.g., Wasco Products, Inc. v. Southwall Technologies, Inc., 435 F.3d 989, 992 (9th Cir. 2006)  
5 (finding that opposition to movant’s motion is not procedural second chance to add a new claim).  
6 Even if the Court were to entertain Plaintiff’s “amendment” and/or surreply, Plaintiff’s fear of  
7 potentially being peppered sprayed for his future refusal to obey the strip search orders of prison  
8 officials does not fall within the imminent danger exception. See 28 U.S.C. § 1915(g); Andrews  
9 v. Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).

10 Therefore, Plaintiff’s motion to file a surreply and/or motion to amend opposition to add an  
11 argument never previously raised is DENIED. (Doc. 32). Furthermore, Plaintiff’s “amendment”  
12 and/or surreply in addition to Defendants’ surreply are ORDERED STRICKEN from the record.  
13 (Docs. 33, 35).

14  
15 IT IS SO ORDERED.

16 Dated: November 19, 2010

  
UNITED STATES MAGISTRATE JUDGE