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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL EUGENE HOLLIS,

Plaintiff,

v.

RUSSELL YORK, et al.,

Defendants.

CASE NO. 1:09-cv-00463-OWW-SMS

ORDER VACATING FINDINGS AND RECOMMENDATIONS RECOMMENDING THIS ACTION BE DISMISSED

(ECF No. 41.)

ORDER GRANTING PLAINTIFF’S REQUEST TO HAVE COVER PAGE OF COMPLAINT ORIGINALLY FILED IN 1:11-CV-00749-OWW-GSA REPLACED AND DIRECTING COMPLAINT BE FILED AS A SECOND AMENDED COMPLAINT IN THIS ACTION

(ECF Nos. 46, 45)

ORDER DIRECTING CLERK’S OFFICE TO CLOSE CASE 1:11-cv-00749-OWW-GSA

Plaintiff Michael Eugene Hollis (“Plaintiff”) is a federal prisoner proceeding pro se and in forma pauperis in this civil action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971), which provides a remedy for violation of civil rights by federal actors. On April 1, 2011, an order issued dismissing Plaintiff’s first amended complaint and granting him thirty days to file a second amended complaint. (ECF No. 39.) On June 7, 2011, findings and recommendations issued recommending this action be dismissed for Plaintiff’s failure to file an amended complaint. (ECF No. 41.) Plaintiff filed objections on June 20, 2011, stating that he had mailed several complaints to the court, including a complaint to be filed in this action. (ECF No. 42.) On June 23, 2011, the Court issued an order directing Plaintiff to notify the

1 Court which of his complaints was to have been the second amended complaint in this action. (ECF
2 No. 44.) On July 11, 2011, Plaintiff filed a response stating that case opened as case no. 1:11-cv-
3 00749-OWW-GSA was the complaint that was to be filed in this action and requests the Court to
4 replace the first page of the complaint. (ECF No. 46.) On July 15, 2011, Plaintiff filed a revised
5 cover page to the complaint. (ECF No. 45.)

6 Accordingly, it is HEREBY ORDERED that:

- 7 1. The findings and recommendations, filed June 7, 2011, recommending this action
8 be dismissed for failure to comply with a court order are VACATED;
- 9 2. Plaintiff's request to replace the first page of the complaint is GRANTED and the
10 Clerk's Office is directed to replace the first page of the complaint filed May 10,
11 2011, in 1:11-cv-00749-OWW-GSA with the revised page filed in this action on July
12 15, 2011;
- 13 3. The complaint filed in 1:11-cv-00749-OWW-GSA shall be filed in this action as a
14 second amended complaint;
- 15 4. A copy of this order shall be filed in case no. 1:11-cv-00749-OWW-GSA; and
- 16 5. Case 1:11-cv-00749-OWW-GSA shall be closed as a duplicate action.

17
18 IT IS SO ORDERED.

19 **Dated:** August 3, 2011

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE