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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PERRY ROBERT AVILA,

CASE NO. 1:09-cv-00918-SMS PC

Plaintiff,

ORDER DENYING MOTION FOR ORDER
RECOGNIZING COGNIZABILITY OF FIRST
AND EIGHTH AMENDMENT CLAIMS OR
FOR LEAVE TO FILE A PARTIAL
AMENDMENT

v.

MATTHEW CATE, et al.,

Defendants.

(Doc. 10)

Plaintiff Perry Robert Avila, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 26, 2009. On February 1, 2010, Plaintiff filed a motion seeking an order recognizing the cognizability of his First and Eighth Amendment claim, or for an order granting him leave to file a partial amendment to his complaint clarifying his claims.

Plaintiff’s complaint does not state a claim for violation of the First or for violation of the Eighth Amendment, and therefore, Plaintiff’s motion seeking an order recognizing the cognizability of such claims is denied. Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S.Ct. 1955, 1964-65 (2007); 28 U.S.C. § 1915A.

Further, amended pleadings must be complete within themselves without reference to another pleading, and therefore, partial amendments are not permissible. Local Rule 220.

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1 For these reasons, Plaintiff's motion is HEREBY ORDERED DENIED.

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IT IS SO ORDERED.

Dated: February 5, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE