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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BERNARD C. HUGHES,

Plaintiff,

v.

CITY OF MARIPOSA, et al.,

Defendants.

CASE NO. 1:09-cv-02249-SMS PC

ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION, WITH PREJUDICE

(ECF No. 45)

ORDER DIRECTING THE CLERK’S OFFICE TO OPEN A NEW ACTION FOR THE COMPLAINT FILED FEBRUARY 2, 2011

_____ / (ECF NO. 42)

Plaintiff Bernard C. Hughes (“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 April 27, 2011, an order was issued denying Plaintiff’s motion to file a separate complaint and striking the third amended complaint. (ECF No. 44.) Plaintiff filed a motion for reconsideration on May 4, 2011. (ECF No. 45.)

Plaintiff states that in the order dismissing his complaint issued on October 22, 2010, he was ordered to file a separate complaint. Being concerned that there would be statute of limitations issues he filed the motion and separate complaint. He did not intend to file a third amended complaint in this action.

The Court will deny Plaintiff’s motion for reconsideration. However, since it appears that Plaintiff was attempting to file a separate action alleging the claims that were dismissed in this case, the Court will order that a separate civil action be opened for the complaint filed February 2, 2011.

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Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff's motion for reconsideration filed May 4, 2011, is DENIED, with prejudice;
and
2. The Clerk of the Court is directed to open a separate civil action for the complaint filed February 2, 2011.

IT IS SO ORDERED.

Dated: May 9, 2011

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE