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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICKEY ADAMS,

Plaintiff,

v.

J. YATES, et al.,

Defendants.

CASE NO. 1:10-cv-671-AWI-MJS (PC)

ORDER DENYING MOTION TO OPPOSE
DEFENDANTS MOTION FOR REMOVAL OF
ACTION

(ECF Nos. 4 & 14)

_____ /

Plaintiff Rickey Adams (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action by filing a complaint in Fresno County Superior Court. Defendants removed the action to this Court on April 15, 2010. (ECF No. 1.) Before the Court is Plaintiff’s “Motion to Oppose Defendants Notice of Removal of Action and Request for Extension of Time” in which Plaintiff contends that the Superior Court of Fresno County has original jurisdiction over this matter. (ECF No. 4.) The Court construes the instant motion as one to remand this action back to state court.

Federal law provides that a defendant may remove an action filed in state court if “the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a). Federal courts “have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. In the instant Motion, Plaintiff states that his complaint alleges a “violation of civil rights under the United States constitution.” (ECF No. 4 at 1.) Because Plaintiff concedes that he is seeking to vindicate

1 his rights under the United States Constitution, this Court has original jurisdiction over this
2 matter. Accordingly, Defendants' removal of this action was proper.

3 For the reasons stated above, Plaintiff's motion to remand is DENIED.

4 Plaintiff also filed a November 10, 2010 notice that this motion had been under
5 submission for more than 120 days. The instant resolution of this motion to remand moots
6 the November 10, 2010 notice. Accordingly, the Clerk also should terminate the November
7 10, 2010 motion.

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10 IT IS SO ORDERED.

11 Dated: November 15, 2010

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE