

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

RICKEY ADAMS,

Plaintiff,

v.

J. YATES, et al.,

Defendants.

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

ORDER DENYING MOTION FOR SETTING
DISCOVERY AND PRE-TRIAL DISPOSITIVE
MOTIONS

ORDER GRANTING MOTION TO FILE AN
AMENDED COMPLAINT

(ECF Nos. 17 and 18)

_____ /

Plaintiff Rickey Adams ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action in state court. It was removed to this Court by Defendants.

Before the Court is Plaintiff's Motion for Setting Discovery and Pre-Trial Dispositive Motions, in which Plaintiff also requests an order requiring Defendants to answer Plaintiff's Complaint and for sanctions. (ECF No. 17.) Also before the Court is Plaintiff's Motion to file an Amended Complaint. (ECF No. 18.)

I. MOTION FOR SETTING DISCOVERY AND PRE-TRIAL DISPOSITIVE MOTIONS

_____ Plaintiff has filed a Motion asking that Defendants be ordered to file an answer and be sanctioned; he also asks the Court to set a discovery and pre-trial dispositive motion schedule. (ECF No. 17.)

The Court is required to screen complaints brought by prisoners seeking relief

1 against a governmental entity or employee of a governmental entity. 28 U.S.C. §
2 1915(A)(a). The Court has not yet screened Plaintiff's Complaint pursuant to 28 U.S.C. §
3 1915(A)(a). The Court screens complaints in the order in which they are filed and strives
4 to avoid delays. However, there are hundreds of prisoner civil rights cases presently
5 pending before this Court and delays are unavoidable. The Court will get to Plaintiff's claim
6 in due course.

7 Defendants need respond to Plaintiff's Complaint only if and after the Court enters
8 its screening order finding that Plaintiff has stated a cognizable claim. In that event, the
9 Court will enter a discovery and scheduling order.

10 Sanctions are not warranted.

11 Accordingly, Plaintiff's Motion is DENIED.

12 **II. MOTION TO FILE AN AMENDED COMPLAINT**

13 Plaintiff has also filed a Motion to File an Amended Complaint. (ECF No. 18.)
14 Federal Rule of Civil Procedure 15(a) provides that a pleading may be amended once as
15 a matter of course so long as no defendant has served a responsive pleading. In this
16 case, no Defendant has yet served a responsive pleading.

17 Accordingly, Plaintiff's Motion is GRANTED. Plaintiff shall file an amended
18 complaint not later than **October 5, 2011**.

19
20
21 IT IS SO ORDERED.

22 Dated: September 2, 2011

Isl. Michael J. Seng
UNITED STATES MAGISTRATE JUDGE