

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

DARREN HARRIS,

CASE NO. 1:10-cv-01238-OWW-SKO PC

Plaintiff,

ORDER

v.

LTA J. DIKIN, et al.,

Defendants.

Plaintiff Darren Harris (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On July 23, 2010, Plaintiff requested that this action be merged with Harris v. Harrington, No. 1:10-cv-01215-AWI-SKO.

Plaintiff intended both actions to be litigated in a single action. The document that was construed as a complaint in No. 1:10-cv-01215-AWI-SKO was intended to be a motion for a temporary restraining order in this action. The confusion arose because the motion was delivered to the Court before Plaintiff’s complaint. Thus, the motion was construed as a complaint and the Clerk’s Office opened an action based on the complaint. When Plaintiff’s complaint arrived after the motion for a temporary restraining order, it was unclear that both documents were meant to be filed in the same action and the Clerk’s Office opened a second, new action for the complaint. The Court will remedy the confusion by merging this action with No. 1:10-cv-01215-AWI-SKO. The documents filed in this action will be transferred to 1:10-cv-01215-AWI-SKO and the Clerk’s Office will be directed to close this action.

///

1 Based on the foregoing, it is HEREBY ORDERED that:

2 1. The Clerk's Office is directed to merge the contents of the docket in this case with  
3 Harris v. Harrington, no. 1:10-cv-01215-AWI-SKO as follows:

4 a. The Clerk's Office is directed to re-file the complaint (Docket #1) in this  
5 action in case number 1:10-cv-01215-AWI-SKO; and

6 b. The Clerk's Office is also directed to re-file the documents listed as Dockets  
7 #4, 8, 9, 10, 11 in this action in case number 1:10-cv-01215-AWI-SKO.

8 2. The Clerk is directed to close this action.

9  
10 IT IS SO ORDERED.

11 Dated: September 20, 2010

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE