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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BOB BEJARANO,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

CASE NO: 1:11-cv-00589-LJO-GBC (PC)

ORDER DENYING PLAINTIFF’S MOTIONS
FOR RECONSIDERATION

Docs. 23, 29

ORDER FINDING PLAINTIFF’S MOTION TO
AMEND COMPLAINT AS MOOT PER
ORDER ADOPTING IN PART

_____/ Docs. 26, 35

I. Procedural Background and Motion to Amend Complaint

On April 12, 2011, Plaintiff Bob Bejarano (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983. On May 31, 2011, Plaintiff filed a second case in this district, *Bejarano v. Allison*, 1:11-cv-00873-OWW-DLB. In both cases, Plaintiff alleged claims against various Defendants, namely O. Best, Sergeant, Facility C, at California Substance Abuse Treatment Facility, Corcoran (“CSATF”), and M. Bejarano, Sergeant, at CSATF. On August 29, 2011, the Court consolidated the cases. Doc. 9. On December 19, 2011, and April 29, 2012, Plaintiff filed a Motion for Reconsideration and a substantively identical second Motion for Reconsideration of the Court’s consolidation order. Docs. 23, 29.

On February 8, 2012, Plaintiff filed a Motion to Amend his complaint in conjunction with filing his Second Amended Complaint. Doc. 27. On June 28, 2012, the Court issued an Order Adopting, in Part, finding that Plaintiff’s second amended complaint states a cognizable claim for First Amendment retaliation as to Defendants O. Best and M. Bejarano. Doc. 35. Thus, Plaintiff’s motion to amend his complaint, filed in conjunction with filing his Second Amended Complaint, is MOOT for review.

1 surveillance watch (“CSW”) from February 17, 2010 to February 20, 2010, in violation of the Eighth
2 Amendment. Plaintiff named the same thirteen defendants in both actions. Plaintiff alleged being
3 placed on CSW a second time in retaliation for complaining about his first CSW placement, which
4 is the only remaining claim in the present action. In the interest of judicial economy, the Court found
5 that these two actions should be consolidated.

6 In Plaintiff’s motions for reconsideration, Plaintiff contends that separate trials are necessary
7 as guaranteed by the Sixth and Fourteenth Amendments. Docs. 23, 29. First, Plaintiff’s argument as
8 to the Sixth and Fourteenth Amendments only applies to criminal cases. *Crawford v. Washington*,
9 541 U.S. 36 (2004); *Melendez–Diaz v. Massachusetts*, 557 U.S. 305 (2009). Second, this Court
10 found a cognizable claim for First Amendment retaliation against Defendants Best and Bejarano,
11 who are parties to this case. Doc. 35. Thus, Plaintiff’s argument for a separate trial lacks merit, and
12 the Court DENIES Plaintiff’s motions to reconsider this Court’s order consolidating cases.

13 **IV. Conclusion**

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

- 15 1. Plaintiff’s motion to amend his complaint, filed in conjunction with filing his Second
16 Amended Complaint, is MOOT for review per the Court’s Order Adopting, in Part;
17 and
- 18 2. Plaintiff’s motions for reconsideration of the Court’s order consolidating cases is
19 DENIED.

20
21 IT IS SO ORDERED.

22 Dated: July 11, 2012

23 /s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE