

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

CURLEY JOHN BROUSSARD, JR.,

CASE NO. 1:11-cv-01276-BAM PC

Plaintiff,

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION, MOTION TO APPOINT COUNSEL, AND MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT, AND STRIKING PLAINTIFF'S LODGED COMPLAINT

v.

LISA A. MUNOZ, et al.,

Defendants.

(ECF Nos. 27, 28, 29, 30)

_____ /

Plaintiff Curley John Broussard, Jr., is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On August 10, 2012, Plaintiff's complaint was screened and dismissed with leave to file an amended complaint within thirty days. (ECF No. 15.) Plaintiff filed a first amended complaint on August 23, 2012. (ECF No. 23.) On October 9, 2012, Plaintiff filed a motion for reconsideration, Plaintiff's first amended complaint was screened, this action was dismissed, without prejudice, and judgment was entered. (ECF No. 23, 24, 25.) On October 12, 2012, an order issued denying Plaintiff's motion for reconsideration. (ECF No. 26.) On October 15, 2012, Plaintiff filed a motion for reconsideration, declaration, motion for appointment of counsel, motion for leave to file an amended complaint, and an amended complaint was lodged. (ECF Nos. 27, 28, 29, 30, 31.)

Plaintiff fails to identify what he is seeking reconsideration of in his motion for reconsideration and states that he was unable to file a timely complaint because correctional officers have obstructed his litigation. However, Plaintiff did file a timely amended complaint which has

1 been screened by the Court and this action has been dismissed because Plaintiff's sole remedy for
2 the claims brought in this action is a writ of habeas corpus. Plaintiff's motion for reconsideration
3 is denied.

4 Plaintiff seeks leave to file an amended complaint to make Connie Gipson the primary
5 defendant in this action. Plaintiff's amended complaint is eighty four pages in length and includes
6 incidents dating back to 1983. Since this action has been dismissed, Plaintiff's motion to amend his
7 complaint and motion for the appointment of counsel are denied.

8 Based on the foregoing, IT IS HEREBY ORDERED that:

- 9 1. Plaintiff's motion for reconsideration is DENIED;
- 10 2. Plaintiff's motion for leave to file an amended complaint is DENIED;
- 11 3. Plaintiff's motion for appointment of counsel is DENIED; and
- 12 4. Plaintiff's amended complaint, lodged October 15, 2012, is STRICKEN FROM THE
13 RECORD.

14
15 IT IS SO ORDERED.

16 **Dated: October 17, 2012**

/s/ **Barbara A. McAuliffe**
UNITED STATES MAGISTRATE JUDGE