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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH ANTHONY BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

CASE No. 1:11-cv-01562-MJS (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO ADD AND AMEND PLEADINGS

(ECF No. 38)

THIRD AMENDED COMPLAINT MUST BE
FILED BY OCTOBER 15, 2012

_____ /

Plaintiff Joseph Anthony Brown, a federal prisoner proceeding pro se filed this action on September 15, 2011 pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). (Compl., ECF No. 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (Consent, ECF No. 6.)

On March 14, 2012, the Complaint was screened and dismissed, with leave to amend, for failure to state a claim. (Order Dismiss. Compl., ECF No. 12.) On May 2, 2012, Plaintiff's First Amended Complaint (First Am. Compl., ECF No. 16) was similarly dismissed for failure to state a claim. (Order Dismiss. First Am. Compl., ECF No. 22.) On August 24, 2012, Plaintiff (1) filed a motion to add a supplemental complaint (Mot. to Supp., ECF No. 33), and (2) lodged a second amended complaint. (Second Am.

1 Compl., ECF No. 34.) On August 29, 2012, the Court ordered that Plaintiff notify the
2 Court in writing whether he wished to proceed upon the lodged Second Amended
3 Complaint or file a third amended complaint. (ECF No. 35.) On September 10, 2012,
4 Plaintiff filed a motion to clarify, correct and request permission (ECF No. 36) to file a
5 third amended complaint and that have his previously filed supplemental complaint
6 serve as the third amended complaint. On September 12, 2012, the Court issued its
7 order denying the request to proceed on the supplemental complaint and granting the
8 request to file a third amended complaint by not later than October 15, 2012. (ECF No.
9 37.) On September 14, 2012, Plaintiff filed a motion to add and amend his previously
10 filed second amended complaint and supplemental complaint (ECF No. 38); that motion
11 is now before the Court.

12 Plaintiff's motion to add and amend his previously filed second amended and
13 supplemental complaints is denied. His previous request to proceed on the second
14 amended complaint and supplemental complaint was denied. He was ordered to file a
15 third amended complaint by October 15, 2012 and advised that failure to do so would
16 result in dismissal of this action. (ECF No. 37.) That Order stands.

17 Accordingly, it is HEREBY ORDERED that:

- 18 1. Plaintiff's motion to add and amend his previously filed second amended
19 and supplemental complaints (ECF No. 38) is DENIED,
- 20 2. Plaintiff must file his third amended complaint by not later than October
21 15, 2012, and
- 22 3. If Plaintiff fails to file a third amended complaint in compliance with this
23 order, this action will be dismissed with prejudice for failure to obey the
24 Court's order and failure to state a claim.

25
26 IT IS SO ORDERED.

27 Dated: September 18, 2012

/s/ Michael J. Song
UNITED STATES MAGISTRATE JUDGE