

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT COLEMAN,

Plaintiff,

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS and
REHABILITATION, *et al.*,

Defendants.

Case No. 1:11-cv-01587-RRB

ORDER DENYING
MOTION AT DOCKET 17

At **Docket 17** Robert Coleman, a state prisoner appearing *pro se* and *in forma pauperis*, has moved to supplement his pleadings and amend his complaint to conform to the evidence. The record in this case indicates that this Court dismissed Coleman's Complaint without leave to amend.¹ Subsequently, Coleman moved for reconsideration,² which this Court denied.³ The procedural deficiencies in the pending motion notwithstanding, to the extent it raises new issues the Court will consider it on the merits.⁴

¹ Docket 12.

² Docket 14.

³ Docket 16.

⁴ Plaintiff prepared and mailed the pending motion before he received the Court's Order denying his motion for reconsideration.

In dismissing Coleman's Complaint the Court determined that: (1) the law did not require prisoners who were found to have violated prison regulations to be treated similarly to prisoners who had not; (2) confinement in a SHU did not constitute a violation of the Eighth Amendment; (3) he had not adequately pleaded and could not plead a violation of the Rehabilitation Act; and (4) because he continued to receive appropriate medical treatment, his confinement in a Shu did not violate the Americans with Disabilities Act. In denying reconsideration, this Court determined that Plaintiff was not a member of a "protected class" within the scope of the Fourteenth Amendment.

In his current motion it appears that Coleman is attempting to expand his claim to allege that the transfer of prisoners diagnosed as HIV positive from Corcoran, allegedly more susceptible to developing "valley fever," but not those who, like Coleman, suffered from hypertension (high blood pressure) and high cholesterol somehow violated his constitutional and statutory rights. This allegation, in addition to being legally insufficient to support an claim of constitutional magnitude, contrary to Coleman's conclusory allegations, it is also unexhausted.

Accordingly, Plaintiff's Motion for Supplemental Pleadings and to Conform to the Evidence at **Docket 17** is **DENIED**.

IT IS SO ORDERED this 15th day of December, 2014.

S/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE