

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DONTAY JOHNSON,

Plaintiff,

vs.

C. LOPEZ, *et al.*,

Defendants.

Case No. 1:12-cv-00018-RRB

**ORDER DENYING MOTION**  
**AT DOCKET 33**

At **Docket 33** Plaintiff Dontay Johnson filed a Motion for Leave to Amend Complaint. Johnson further requests that the Court appoint counsel. Johnson previously sought leave to file an Amended Complaint which was denied.<sup>1</sup> The proposed Amended Complaint at Docket 34 is the proposed Amended Complaint that was stricken, with interlineations and insertions, ostensibly intended to conform to the Court's Screening Order. The Court's review of the proposed Amended Complaint *sub judice* indicates that it simply elaborates on the allegations in the original complaint with respect to Defendant Lopez, principally recasting them in the form of seeking the same relief on the same facts under different legal theories. The Court is not limited to the legal theories pleaded, it may grant the

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<sup>1</sup> See Order at Docket 27.

requested relief based upon any legal theory supported by the facts.<sup>2</sup> Accordingly, the proposed amendment is unnecessary.

To the extent Plaintiff has renewed his request for appointment of counsel, the Court previously denied that request.<sup>3</sup> Plaintiff has not provided any basis upon which the Court may reconsider its prior decision.

Accordingly, the Motion for Leave to Amend Complaint at **Docket 33** is **DENIED** and the proposed Amended Complaint at **Docket 34** is **STRICKEN**.

**IT IS SO ORDERED** this 26<sup>th</sup> day of February, 2014.

S/ RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Fed. R. Civ. Proc. 8; *see, e.g., Sagana v. Tenorio*, 384 F.3d 731, 736–37 (9th Cir. 2004) (“A party need not plead specific legal theories in the complaint, so long as the other side receives notice of what is at issue in the case.”). The Complaint clearly satisfies that standard.

<sup>3</sup> Order at Docket 30.