DWAYNE MEREDITH, Plaintiff. ٧. D. OVERLEY, et al., Defendants.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA

CASE No. 1:12-cv-00455-LJO-MJS

ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT

(ECF No. 46)

Plaintiff Dwayne Meredith is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. The action proceeds on Plaintiff's First Amended Complaint against Defendants Overley, Benevidez, and Gamboa for deliberate indifference to a substantial risk of harm in violation of the Eighth Amendment. (ECF No. 9.)

On September 3, 2013, Plaintiff filed a motion to amend the operative complaint by adding a new defendant and a new claim that the new defendant had filed a false declaration in support of Defendants' motion to dismiss. Plaintiff also moved to increase the requested punitive damages in light of the new claim. (ECF No. 36.) The Court denied the motion on a finding that the new claim was not an extension of the events giving rise to this action. (ECF No. 45.)

On February 14, 2014, Plaintiff filed a second motion to amend seeking only to

increase the requested punitive damages. (ECF No. 46.) The additional damages are based on the same conduct addressed in the first motion to amend. (Id.) "While leave to permit supplemental pleading is favored, it cannot be used to introduce a separate, distinct and new cause of action." Planned Parenthood of Southern Arizona v. Neely, 130 F.3d 400, 402 (9th Cir. 1997) (internal quotation marks and citation omitted). The Court has already determined that the allegedly wrongful declaration has no relation to Plaintiff's Eighth Amendment claim. Damages based thereon similarly fail to relate to those claims. Plaintiff may not seek relief in this action based on events unrelated to those underlying this case.

Accordingly, Plaintiff's motion to amend the First Amended Complaint (ECF No. 46), filed on February 14, 2014, is DENIED.

IT IS SO ORDERED.

Dated: September 25, 2014 Isl Michael J. Seng
UNITED STATES MAGISTRATE JUDGE