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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LUIS V. RODRIGUEZ,)	Case No.: 1:12-cv-00757 JLT (PC)
)	
Plaintiff,)	ORDER DISMISSING FIRST AMENDED
)	COMPLAINT WITHOUT LEAVE TO AMEND
v.)	
)	
CDCR, et. al,)	(Doc. 10)
)	
Defendants.)	
)	
)	
)	
)	

Plaintiff is a prisoner proceeding pro se and in forma pauperis in an action pursuant to 42 U.S.C. § 1983.

On August 27, 2012, Plaintiff filed his First Amended Complaint. (Doc. 10) On the face page of the document, Plaintiff notes,

The Court previously dismissed without prejudice the claims/facts and defendants now again being presented (previously filed as RODRIGUEZ V. SCHWARZENEGGER, et al., #2:07-CV-02531-ATG, dismissal without prejudice Order of October 5, 2011 (Plaintiff previously gave re-written complaint for new filing to KVSP Officer Hefflefinger for mailing in December 2011, but recently found the Court never received it, an [sic] now filing new re-written complaint.

Id. at 1. The Court has reviewed the docket in the companion case and has discovered that, indeed, the Court dismissed with leave to amend, Plaintiff's fourth amended complaint. (Case no. 2:07-CV-02531-ATG, Doc. 75) In doing so, the Court observed,

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While Rodriguez may move for leave to amend his complaint yet again, the court believes that further amendment at this point is likely futile. See Sisseton-Wahpeton Sioux Tribe v. United States, 90 F.3d 351, 355-56 (9th Cir. 1996) (noting that prior amendment and futility weigh heavily in favor of denying further leave to amend). Any motion for leave to amend must be filed within thirty days of the date of this order.

Id. After this, on November 4, 2011, Plaintiff filed a motion for leave to file a fifth amended complaint (Doc. 77) which was denied on November 9, 2011 (Doc. 78). On December 5, 2011, Plaintiff moved the Court to reconsider its order denying the motion to amend (Doc. 81) and the Court denied this request on December 20, 2011 (Doc. 82).

Review of the first amended complaint filed in this action makes clear that Plaintiff seeks to pursue the same actions related to the most of the same events raised in the earlier case.¹ This is not permitted. Thus, the Court **ORDERS** this matter to be **DISMISSED WITHOUT LEAVE TO AMEND.**

IT IS SO ORDERED.

Dated: August 29, 2012

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

¹ Moreover, as noted by Judge Goodwin in the earlier action, the first amended complaint here continues to be a “mishmash” of allegations and causes of action related to events spanning a decade. This is not permitted. Fed. R. Civ. P. 18.