UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JOSEPH RAYMOND MCCOY,
 	
    Plaintiff,
 	
 vs.
 	
STRONACH, et al.,
 	
    Defendants.
	) 1:12cv00983 AWI DLB PC
	)
	) ORDER STRIKING PLAINTIFF'S
	) "CRIMINAL COMPLAINT"
	)
	) (Document 92)
	)
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	)
	)

Plaintiff Joseph Raymond McCoy ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. Plaintiff filed his complaint on June 19, 2012. This action is proceeding on an Eighth Amendment deliberate indifference claim against Defendants Stronach, Gonzales, LeMay, Beltran, Fisher, Snell and Tann.

Defendants' November 5, 2014, motion for summary judgment based on exhaustion is pending. On January 5, 2015, the Court granted Defendants' motion for a protective order and stayed all merits-based discovery pending resolution of the exhaustion issue.

On April 3, 2015, the Court received a "Criminal Complaint" from Plaintiff. The caption did not include a case number, though Plaintiff references the instant case number in the body of the document. It appears that Plaintiff wants to file a criminal action against Defendants based

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on the Court's finding at the screening level that he stated a claim for which relief may be granted. ECF No. 92, at 3.

However, only state and federal prosecutors have the ability to file a criminal action. Accordingly, as Plaintiff cannot file a criminal complaint on his own behalf, his filing is STRICKEN.

To the extent that Plaintiff intends to sue Defendants for violation of the California Penal Code, he cannot do so. Gonzaga University v. Doe, 536 U.S. 273, 283-86 (2002) (basing a claim on an implied private right of action requires a showing that the statute both contains explicit rights-creating terms and manifests an intent to create a private remedy); see also Allen v. Gold Country Casino, 464 F.3d 1044, 1048 (9th Cir.2006) (no private right of action for violation of criminal statutes).

IT IS SO ORDERED.

Dated: __**April 22, 2015**__   _____/s/ *Dennis L. Beck*_____
                                                    UNITED STATES MAGISTRATE JUDGE