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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH RAYMOND MCCOY,) 1:12cv00983 AWI DLB PC
)
) Plaintiff,) ORDER DENYING PLAINTIFF’S
) MOTION TO FILE SURREPLY
)
 vs.) (Document 96)
)
 STRONACH, et al.,)
)
 Defendants.)

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.

On April 22, 2015, the Court issued Findings and Recommendations granting Defendants’ motion for summary judgment based on exhaustion. Objections are due within thirty (30) days.

On April 23, 2015, Plaintiff filed a motion for leave to file a surreply. The Court deems the matter suitable for decision without an opposition.

1 Parties do not have the right to file surreplies and motions are deemed submitted when
2 the time to reply has expired. Local Rule 230(1). The Court generally views motions for leave to
3 file a surreply with disfavor. Hill v. England, 2005 WL 3031136, at *1 (E.D. Cal. 2005) (citing
4 Fedrick v. Mercedes-Benz USA, LLC, 366 F.Supp.2d 1190, 1197 (N.D. Ga. 2005)). However,
5 district courts have the discretion to either permit or preclude a surreply. See U.S. ex rel. Meyer
6 v. Horizon Health Corp., 565 F.3d 1195, 1203 (9th Cir. 2009) (district court did not abuse
7 discretion in refusing to permit “inequitable surreply”); JG v. Douglas County School Dist., 552
8 F.3d 786, 803 n.14 (9th Cir. 2008) (district court did not abuse discretion in denying leave to file
9 surreply where it did not consider new evidence in reply); Provenz v. Miller, 102 F.3d 1478,
10 1483 (9th Cir. 1996) (new evidence in reply may not be considered without giving the non-
11 movant an opportunity to respond).
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13 Here, the Court has already issued Findings and Recommendations. Moreover, to the
14 extent that Plaintiff states that he wants to reply to Defendants’ argument that his opposition was
15 untimely, the Court addressed the argument and considered Plaintiff’s opposition.

16 Plaintiff’s motion is therefore DENIED.

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18 IT IS SO ORDERED.

19 Dated: April 27, 2015

20 /s/ Dennis L. Beck
21 UNITED STATES MAGISTRATE JUDGE
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