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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 BILAL AHDOM,

12 Plaintiff,

13 vs.

14 C. ETCHEBEHERE, et al.,

15 Defendants.
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1:13-cv-01623-DAD-GSA-PC

ORDER GRANTING DEFENDANT'S
MOTION TO STRIKE
(ECF No. 58.)

ORDER STRIKING PLAINTIFF'S MAY 5,
2017, RESPONSE AS AN IMPROPER
SURREPLY
(ECF No. 57.)

18 **I. BACKGROUND**

19 Bilal Ahdom ("Plaintiff") is a state prisoner proceeding pro se with this civil rights
20 action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action
21 on October 9, 2013. (ECF No. 1.) This case now proceeds on Plaintiff's Second Amended
22 Complaint, filed on December 8, 2015, against defendant Associate Warden C. Etchebehere
23 ("Defendant") for violation of the Religious Land Use and Institutionalized Persons Act [42
24 U.S.C. § 2000cc-1].¹ (ECF No. 24.)

25 On January 20, 2017, Defendant filed a motion for summary judgment and a motion for
26 an order requiring payment of security. (ECF No. 44.) On April 12, 2017, Plaintiff filed an
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28 ¹ On December 16, 2015, the court dismissed all remaining claims and defendants from this action based
on Plaintiff's failure to state a claim. (ECF No. 25.)

1 opposition to Defendants' motions. (ECF No. 52.) On April 19, 2017, Defendant filed a reply
2 to Plaintiff's opposition. (ECF No. 54.) On May 5, 2017, Plaintiff filed a response to
3 Defendant's reply. (ECF No. 57.) Defendant's motion for summary judgment and motion for
4 an order requiring payment of security are pending.

5 On May 19, 2017, Defendant filed a motion to strike Plaintiff's May 5, 2017, response
6 as an improper surreply. (ECF No. 58.) On June 13, 2017, Plaintiff filed an opposition to
7 Defendant's motion to strike. (ECF No. 59.)

8 Defendant's motion to strike is now before the court. Local Rule 230(l).

9 **II. SURREPLIES**

10 A surreply, or sur-reply, is an additional reply to a motion filed after the motion has
11 already been fully briefed. USLegal.com, <http://definitions.uslegal.com/s/sur-reply/> (last
12 visited December 31, 2013). The Local Rules provide for a motion, an opposition, and a reply.
13 Neither the Local Rules nor the Federal Rules provide the right to file a surreply. A district
14 court may allow a surreply to be filed, but only "where a valid reason for such additional
15 briefing exists, such as where the movant raises new arguments in its reply brief." Hill v.
16 England, 2005 WL 3031136, *1 (E.D.Cal. Nov. 8, 2005).

17 Defendant argues that Plaintiff's document entitled "Plaintiff's Response to
18 Defendant's Reply to His Opposition to Motion for Summary Judgment and Motion for an
19 Order Requesting Security" filed on May 5, 2017, appears to be an improper surreply, which
20 the court should strike from the record. (ECF No. 57.) In opposition, Plaintiff argues that his
21 surreply should be allowed because "there is no Federal Rules of Civil Procedure that prohibits
22 a response to a Reply to an Opposition to Motion for Summary Judgment and Motion for an
23 Order Requesting Security." (ECF No. 59.)

24 Plaintiff's argument is unpersuasive. Defendant's motion for summary judgment was
25 fully briefed and submitted on the record under Local Rule 230(l) on April 19, 2017, when
26 Defendant filed a reply to Plaintiff's opposition. (ECF No. 54.) Plaintiff then improperly filed
27 a surreply on May 5, 2017, after the motion was fully briefed, without leave of court. In this
28 case, the court neither requested a surreply nor granted a request on the behalf of Plaintiff to

1 file a surreply. Plaintiff has not shown good cause for the court to allow him to file a surreply
2 at this juncture. Therefore, Defendant's motion to strike shall be granted, and Plaintiff's
3 surreply shall be stricken from the record as improperly filed.

4 **III. CONCLUSION**

5 Based on the foregoing, IT IS HEREBY ORDERED that:

- 6 1. Defendant's motion to strike, filed on May 19, 2017, is GRANTED; and
- 7 2. Plaintiff's surreply, filed on May 5, 2017, is STRICKEN from the court's record.

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9 IT IS SO ORDERED.

10 Dated: July 24, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE