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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATHAN SESSING,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

Case No. 1:13-cv-01684-LJO-MJS (PC)
**ORDER DENYING PLAINTIFF'S SECOND
MOTION FOR LEAVE TO AMEND
COMPLAINT**
(ECF No. 42)

I. PROCEDURAL HISTORY

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Findings and recommendations addressing the claims in Plaintiff's Fourth Amended Complaint have been issued and are subject to twice-extended deadlines for objecting to them. Before the Court is Plaintiff's second motion for leave to file a Fifth Amended Complaint. (ECF No. 38).

The Court originally issued findings and recommendations to dismiss Plaintiff's Third Amended Complaint with prejudice on March 30, 2015. (ECF No. 25.) In response to Plaintiff's objections (ECF No. 32), however, the Court vacated the findings and recommendations and permitted Plaintiff to file an amended complaint. (ECF No. 33.) After Plaintiff filed his Fourth Amended Complaint (ECF No. 34), the Court issued new findings and recommendations June 29, 2015, recommending that service proceed on Plaintiff's Equal Protection claim and that his First Amendment and RLUIPA claims be

1 dismissed. (ECF No. 35.) Plaintiff has been granted two extensions of time to file objections
2 to the findings and recommendations (ECF Nos. 37 & 40), and his objections are due on
3 September 30, 2015. The Court denied his first motion to amend the complaint on
4 September 3, 2015. (ECF No. 41.) Plaintiff filed the instant motion on September 14, 2015.
5 (ECF No. 42.)
6

7 **II. MOTION TO AMEND**

8 Plaintiff's basis for amending his complaint is that Defendants have made
9 unspecified changes to prison policies regarding inmate religious activities and that his
10 rights continue to be violated. Plaintiff appears to have filed the second motion to amend
11 before receiving the Court's order denying his first one because he writes that "the Court
12 has not ruled on Plaintiff's Motion for Leave to Amend." (ECF No. 42, at 1.)
13

14 **III. DISCUSSION**

15 As the Court noted in its order denying Plaintiff's first motion to amend (ECF No. 41),
16 28 U.S.C. § 636(b)(1) expressly allows any party to object to a magistrate judge's findings
17 and recommendations, and requires a district judge to make a *de novo* determination of the
18 portions of findings and recommendations to which objection is made. In other words,
19 Plaintiff is free to object – on factual or legal grounds – to any part of the Court's June 29,
20 2015 findings and recommendations, and the district judge is required, by law, to consider
21 Plaintiff's objections in determining whether or not to adopt the findings and
22 recommendations. In addition, the magistrate judge may, in response to information in a
23 party's objections, vacate its own findings and recommendations, as this Court did after
24 reviewing Plaintiff's objections to its March 30, 2015 findings and recommendations. (ECF
25 No. 33.)
26

27 Insofar as Plaintiff now possesses additional facts supporting his original claims, the
28 Court reminds him that 28 U.S.C. § 636(b)(1) requires consideration of his objections,
2

1 including whether they raise new factual issues: therefore Plaintiff may bring these
2 additional facts to the Court's attention in his objections.

3 Insofar as Plaintiff alleges that new constitutional violations by new defendants have
4 occurred as a result of prison policy changes, Plaintiff may bring such claims in a separate
5 lawsuit. Federal Rule of Civil Procedure 20(a)(2) only permits a plaintiff to sue multiple
6 defendants in the same action if at least one claim against each defendant arises out of the
7 same "transaction, occurrence, or series of transactions or occurrences" and there is a
8 "question of law or fact common to all defendants." If defendants were involved in separate
9 transactions that allegedly violated Plaintiff's rights, Plaintiff must vindicate these distinct
10 violations in separate lawsuits.
11

12 Just because claims are premised on the same *type* of constitutional violation(s)
13 does *not* make them factually related. Claims are only related when they are based on the
14 same precipitating event or on a series of events caused by the same precipitating event.
15 Thus, in order to bring claims arising out of policy changes made *after* Plaintiff filed his
16 original complaint, Plaintiff must be able to show that these policy changes were the result
17 of some event or transaction that *also* gave rise to his original claims. Otherwise, he is free
18 to file a separate lawsuit addressing new violations of his religious rights.
19

20 For the foregoing reasons, the Court will deny Plaintiff's motion to amend.
21

22 **IV. ORDER**

23 Accordingly, it is HEREBY ORDERED that Plaintiff's motion for leave to file an
24 amended complaint (ECF No. 42) is DENIED.

25 IT IS SO ORDERED.

26 Dated: September 16, 2015

27 /s/ Michael J. Seng

28 UNITED STATES MAGISTRATE JUDGE

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