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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT A. VON VILLAS,
Plaintiff,
v.
PALLARES, et al.,
Defendants.

Case No. 1:13-cv-01869-LJO-JLT (PC)
**ORDER DISREGARDING PLAINTIFF'S
MOTION FOR LEAVE TO FILE A SECOND
AMENDED COMPLAINT AS MOOT**
(Doc. 28)

Plaintiff, Robert A. Von Villas, is a state prisoner who is currently proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on November 18, 2013. (Doc. 1.) It was screened and dismissed with leave to amend. (Doc. 11.) Plaintiff filed the First Amended Complaint (Doc. 16) which was screened and upon which a Findings and Recommendation ("F&R") issued recommending that Plaintiff be allowed to proceed on the only cognizable claim which was against Defendant Heberling for retaliation (Doc. 19). Plaintiff received and complied with a couple of extensions of time to file his objections to the F&R. (Docs. 22,-25, 26.)

From his objections, it appeared that Plaintiff might be able to state one or more additional cognizable claims if given opportunity. Thus, on April 14, 2015, an order issued withdrawing the F&R and granting leave one last opportunity to correct the deficiencies in his pleading. (Doc. 27.) On April 17, 2015, Plaintiff filed a motion for leave to file a second amended complaint -- which apparently crossed in the mail with the order withdrawing the F&R and granting Plaintiff

1 leave to amend. (Doc. 28.) Thus, Plaintiff has until May 15, 2015 to file a second amended
2 complaint if he desires to do so. Alternatively, if he decides to proceed only on the cognizable
3 retaliation claim against Defendant Heberling as identified in the F&R that issued on December
4 15, 2015, he must file a notice of intent to do so instead, at which time the F&R will be reinstated.
5 (Doc. 27.)

6 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for leave to file a second
7 amended complaint, filed on April 17, 2015 (Doc. 28), be DISREGARDED as moot.

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9 IT IS SO ORDERED.

10 Dated: April 21, 2015

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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