

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**

8 EASTERN DISTRICT OF CALIFORNIA
9

10 FRANK DEARWESTER,

Case No. 1:15-cv-00621-SKO (PC)

11 Plaintiff,

ORDER GRANTING MOTION,
DISMISSING ACTION AS DUPLICATIVE,
AND DIRECTING CLERK'S OFFICE TO
FILE COMPLAINT AS AMENDED
COMPLAINT IN CASE NUMBER 1:15-cv-
00415-DLB (PC)

12 v.

13 CALIFORNIA DEPT. OF
OF CORR. & REHAB., et al.,

14 Defendants.
15 _____/

(Doc. 7)

16 Plaintiff Frank Dearwester, a state prisoner proceeding pro se and in forma pauperis, filed
17 this civil rights action pursuant to 42 U.S.C. § 1983 on April 21, 2015. On June 5, 2015, Plaintiff
18 filed a response to an order to show cause and a motion to consolidate this case with *Dearwester v.*
19 *California Department of Corrections and Rehabilitation*, et al., case number 1:15-cv-00415-DLB
20 (PC), which was filed on February 26, 2015.

21 A review of the record in both cases shows that on March 20, 2015, Plaintiff's complaint
22 in case number 1:15-cv-00415-DLB (PC) was stricken from the record for lack of signature. On
23 May 18, 2015, after Plaintiff failed to comply with the order to file a signed complaint within
24 thirty days, the Court issued an order to show cause why the action should not be dismissed.
25 Plaintiff's subsequent response was filed in both cases and it indicates that the complaint filed in
26 this case was intended to be the amended complaint 1:15-cv-00415-DLB (PC). The Court has
27 reviewed the complaints in both actions and finds they are duplicative. Therefore, Plaintiff's
28

1 motion shall be granted in that this action will be dismissed on the ground that it is duplicative of
2 the earlier-filed 1:15-cv-00415-DLB (PC), and the Clerk's Office will be directed to file the
3 complaint in this case in Plaintiff's other case as an amended complaint. Plaintiff's request for
4 relief regarding the submission of additional exhibits is more appropriately left for the Court to
5 resolve in 1:15-cv-00415-DLB (PC).

6 Accordingly, it is HEREBY ORDERED that:

- 7 1. Plaintiff's motion is GRANTED, and this action is dismissed on the ground that it
8 is duplicative of 1:15-cv-00415-DLB (PC); and
- 9 2. The Clerk's Office shall file a copy of the complaint in this action as an amended
10 complaint in 1:15-cv-00415-DLB (PC).

11 IT IS SO ORDERED.
12

13 Dated: June 8, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE