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4 **UNITED STATES DISTRICT COURT**
5 **EASTERN DISTRICT OF CALIFORNIA**
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7 **THOMAS L. GOFF,**

8 **Plaintiff**

9 **v.**

10 **GAMEZ,**

11 **Defendants**

CASE NO. 1:15-CV-0937 AWI EPG

**ORDER ON PLAINTIFF'S RULE 15(b)
MOTION**

(Doc. No. 95)

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14 On November 8, 2019, the Court dismissed this case after Plaintiff failed to respond to an
15 order to show cause. The dismissal follows a previous dismissal and other orders to show cause,
16 all based either on Plaintiff's inability prosecute this case.

17 On December 9, 2019, Plaintiff filed a notice of appeal.

18 On December 12, 2019, Plaintiff filed what is styled as a Rule 15(b) motion. See Doc. No.
19 95. Federal Rule of Civil Procedure 15(b) deals amending a complaint during trial and
20 amendment based on implied consent. However, Plaintiff's motion does not fit within the
21 purview of Rule 15(b) because Plaintiff this case did not make it to trial and Plaintiff does not
22 address or request amendment. As a Rule 15(b) motion, Plaintiff's motion will be denied.

23 Despite the styling of the motion, Plaintiff's motion appears to be an attempt to respond to
24 the order to show cause. As a response, Plaintiff's motion is unavailing. The time to show cause
25 was within the time limit set by the order to show cause. Plaintiff has only now responded to the
26 order to show cause - after he has filed an appeal, after more than a month has passed since this
27 case was closed, and well beyond the time to respond set by the order to show cause. Plaintiff's
28 response is too late.

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Accordingly, IT IS HEREBY ORDERED that Plaintiff's Rule 15(b) motion (Doc. No. 95)
is DENIED.

IT IS SO ORDERED.

Dated: December 16, 2019



SENIOR DISTRICT JUDGE