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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
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9 BRIAN CAPUTO,

10 Plaintiff,

11 v.

12 GONZALES, et al.,

13 Defendants.
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Case No. 1:15-cv-01008-LJO-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR SANCTIONS WITHOUT PREJUDICE
AND DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

(ECF NO. 183)

16 Brian Caputo ("Plaintiff") is a prisoner¹ proceeding *pro se* and *in forma pauperis* in this
17 this civil rights action filed pursuant to 42 U.S.C. § 1983.

18 On June 18, 2019, Plaintiff filed a motion for sanctions for violation of Federal Rule of
19 Civil Procedure 11(b). (ECF No. 183). In that motion, Plaintiff also asks that he be granted
20 summary judgment.

21 Plaintiff asks for sanctions because "Defendant Oscar Gonzalez and counsel had filed
22 notice with the court stating the spelling of defendant[']s name to be 'Gonzales' and requested
23 to have the court docket changed. After several months defendant and counsel have stated the
24 spelling of Oscar 'Gonzales' name to be Gonzalez." (*Id.* at 1).

25 Plaintiff asks for summary judgment because "defendants['] argument is moot now that
26 they have lied and will more than likely lie again in this civil action." (*Id.* at 2).

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28 ¹ Plaintiff was detained at Kern County Jail at the time of the incidents alleged in the complaint. He is
now incarcerated at USP Yazoo City.

1 Plaintiff's motions will be denied. As to Plaintiff's motion for sanctions, it does not
2 appear that Plaintiff complied with Federal Rule of Civil Procedure 11(c)(2), which states that a
3 motion for sanctions "must be served under Rule 5, but it must not be filed or be presented to
4 the court if the challenged paper, claim, defense, contention, or denial is withdrawn or
5 appropriately corrected within 21 days after service or within another time the court sets."
6 Therefore, Plaintiff's motion for sanctions will be denied, without prejudice to Plaintiff serving
7 the motion pursuant to Rule 5 and refiling the motion after the 21-day period has run if
8 defendant Gonzales fails to appropriately correct the error.²

9 As to Plaintiff's motion for summary judgment, it will be denied because the summary
10 judgment deadline was March 15, 2019, and Plaintiff did not even attempt to show good cause
11 or excusable neglect for his late filing. Moreover, Plaintiff's motion for summary judgment
12 consists of one paragraph, and no evidence is provided.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Plaintiff's motion for sanctions is DENIED without prejudice; and
- 15 2. Plaintiff's motion for summary judgment is DENIED.

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17 IT IS SO ORDERED.

18 Dated: June 19, 2019

19 /s/ Eric P. Gray
20 UNITED STATES MAGISTRATE JUDGE

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28 ² The Court notes that if the incorrect spelling of defendant Gonzales' name was provided to the Court,
the spelling should be corrected.