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3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF CALIFORNIA
5

6 SHANNON RILEY,

7 Plaintiff,

8 v.

9 TALLERICO, et al.,

10 Defendants.
11
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Case No. 1:16-cv-01189-EPG (PC)

ORDER DENYING PLAINTIFF'S EX
PARTE MOTION TO RELATE BACK

(ECF NO. 38)

13 Shannon Riley ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis*
14 in this civil rights action filed pursuant to 42 U.S.C. § 1983. On September 29, 2017, Plaintiff
15 filed an "Ex Parte Motion to Relate Back, Fed. R. Civ. P. 15([c])(1)(C), ([a])(2)[]" ("the
16 Motion"). While Plaintiff titled the Motion "Motion to Relate Back," Plaintiff asks that he be
17 allowed to amend his complaint, and that he be given a thirty day extension to do so.

18 Plaintiff's motion will be denied. If Plaintiff wants to file an amended complaint, he
19 may file a motion for leave to file an amended complaint, along with a copy of the proposed
20 Fourth Amended Complaint. The motion should explain why Plaintiff needs to amend his
21 complaint, and the proposed changes. Plaintiff does not need leave of the Court to file the
22 motion, and he does not need to ask for an extension of time.

23 However, the Court notes that it would not be inclined to grant Plaintiff's motion for
24 leave to amend. In screening Plaintiff's Third Amended Complaint, the Court stated: "The
25 Court will not provide further leave to amend the complaint. This is Plaintiff's Third Amended
26 Complaint. The Court provided significant legal standards and guidance in its screening order
27 dated January 25, 2017. (ECF No. 20). Given the multiple amendments and the legal guidance
28 that was provided, the Court finds that further amendment would be futile." (ECF No. 24, p.

1 10).

2 Moreover, the Motion lists ten defendants Plaintiff wishes to add to his complaint,
3 including several doctors, an associate warden, and the warden. It appears that all ten of these
4 defendants were listed in Plaintiff's Second Amended Complaint, which was dismissed because
5 it did not "include 'a short and plain statement of the claim showing that the pleader is entitled
6 to relief,' and because it include[d] claims against multiple defendants that [did] not 'aris[e] out
7 of the same transaction, occurrence, or series of transactions or occurrences' or involve 'any
8 question of law or fact common to all defendants.'" (ECF No. 20, p. 8). Based on the
9 representations in the Motion, it appears that Plaintiff may be attempting to add claims and
10 defendants that are not related to the claims and defendants in the current complaint.¹

11 Accordingly, based on the foregoing, IT IS ORDERED that the Motion is DENIED
12 without prejudice.

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14 IT IS SO ORDERED.

15 Dated: October 3, 2017

16 /s/ Eric P. Grogan
17 UNITED STATES MAGISTRATE JUDGE

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27 ¹ If Plaintiff chooses to file a motion for leave to amend, Plaintiff should refer to the standards the Court
28 provided in the screening order entered on January 25, 2017 (ECF No. 20), and the screening order entered on
April 24, 2017 (ECF No. 24).