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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

EFREN DANIELLE BULLARD,  
  
Plaintiff,  
  
v.  
  
BENSON, *et al.*  
  
Defendants.

Case No. 1:17-cv-00328-NONE-JDP  
  
ORDER DENYING PLAINTIFF’S  
MISCELLANEOUS MOTION  
  
ECF No. 81

Plaintiff Efren Bullard is a state prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. On December 4, 2019, plaintiff filed a miscellaneous motion. ECF 81. While this motion is labeled as a “dispositive motion,” it does not seek any dispositive relief, and so we will not treat it as dispositive. *See Andersen v. United States*, 298 F.3d 804, 807 (9th Cir. 2002) (“The substance of the motion, not its form, controls its disposition.”). Dispositive motions typically seek to dispose of all or some claims in favor of the moving party. Instead, plaintiff’s motion argues that his own claims should not be dismissed at this stage in the litigation. *See id.* at 2 (“[P]laintiff will do the best he can on this dispositive motion to present the facts in this civil matter so that his claims will not be dismissed.”). Because defendants have no pending motions seeking dismissal, we are not currently considering dismissal of any of plaintiff’s claims. We will therefore deny plaintiff’s miscellaneous motion as unnecessary.

We believe plaintiff may have operated under the assumption that he was *required* to file

1 a motion by the relevant dispositive-motion deadline. *See id.* at 1 (“Plaintiff had to look up the  
2 word ‘dispositive motion’ in the Blacks Law dictionary to find out what [he] *was supposed to*  
3 *do* in regards to a [Dispositive] Motion.”) (emphasis added). This is not the case; dispositive  
4 motions are not required. However, plaintiff should be aware that he suffers no prejudice from  
5 filing the motion or from having it denied as unnecessary.

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7 IT IS SO ORDERED.

8 Dated: February 3, 2020

  
9 UNITED STATES MAGISTRATE JUDGE

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12 No. 205.  
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