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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY FRANCIS FISHER,
aka SONNY BARGER, II,
aka GARY DALE BARGER,

Plaintiff,

v.

DIRECTOR OF OPS OF CDCR,

Defendant.

1:17-cv-00438-DAD-EPG (PC)
ORDER STRIKING AMENDED COMPLAINT
(ECF NO. 11)

Gary Francis Fisher, aka Sonny Barger, II, aka Gary Dale Barger (“Plaintiff”) is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the complaint commencing this action on February 22, 2017, in the United States District Court for the Northern District of California. (ECF No. 1). On March 27, 2017, this case was transferred to the Fresno Division of the Eastern District of California. (ECF Nos. 3 & 4). On March 30, 2017, the Court issued findings and recommendations, recommending that Plaintiff’s application to proceed in forma pauperis be denied because 28 U.S.C. § 1915(g) precludes Plaintiff from proceeding in forma pauperis, and that this case be dismissed. (ECF No. 7). On

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1 April 24, 2017, Plaintiff filed a notice¹ dismissing this action without prejudice (ECF No. 9), and
2 the case was closed (ECF No. 10).

3 On May 1, 2017, Plaintiff filed what appears to be an amended complaint, which the
4 Court will strike. Federal Rule of Civil Procedure 12(f) states: “The court may strike from a pleading
5 an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court
6 may act: (1) on its own; or (2) on motion made by a party either before responding to the pleading or,
7 if a response is not allowed, within 21 days after being served with the pleading.”

8 Here, Plaintiff voluntarily dismissed his case and the case has been closed. Additionally,
9 when Plaintiff filed his voluntary dismissal, findings and recommendations were pending,
10 recommending that Plaintiff’s application to proceed in forma pauperis be denied and that this case be
11 dismissed. Plaintiff did not file an objection to those findings and recommendations.

12 Accordingly, based on the foregoing, IT IS ORDERED that Plaintiff’s amended complaint
13 (ECF No. 11) is STRICKEN from the record.

14 IT IS SO ORDERED.

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16 Dated: May 3, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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28 ¹ Although Plaintiff titled his notice of dismissal as a “Motion to Close Case,”
the Court construed the request as a notice of dismissal under Rule 41(a)(1)(A)(i) of the Federal
Rules of Civil Procedure.