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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FELIPE MENDEZ, JR.,
Plaintiff,
v.
UNITED STATES OF AMERICA, et al.,
Defendants.

1:17-cv-00555-LJO-MJS (PC)
ORDER DENYING MOTION TO STAY AS
MOOT
(ECF No. 12)

Plaintiff is a prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971) and the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680 (“FTCA”).

On July 11, 2017, the Court screened Plaintiff’s first amended complaint and found it stated cognizable Eighth Amendment claims against Defendants Ghotra, Awad, Rivera, Mendoza, Lake, Lozano, Marlow, Cisneros, Amos, and Gramm. (ECF No. 11.) Plaintiff was directed to file either a second amended complaint or a notice of willingness to proceed on his cognizable claims only. After first seeking an extension of time in

1 which to file his second amended complaint, Plaintiff filed a notice of willingness to
2 proceed on his cognizable claims only. (ECF No. 16.) Then on September 25, 2017,
3 Plaintiff filed a request to withdraw his notice of willingness to proceed (ECF No. 17) and
4 requested a sixty day extension of time to file a second amended complaint (ECF No.
5 18.)

6 As Plaintiff's first amended complaint was not been sent out for service, his
7 request to withdraw his notice of willingness to proceed was granted. (ECF No. 19.)
8 Plaintiff also was granted sixty days to file his second amended complaint. (Id.)

9 On July 13, 2017, Plaintiff filed motion to stay this action and hold it in abeyance
10 while pending his transfer to a new correctional institution because the transfer would
11 interfere with his ability to proceed. (ECF No. 12.)

12 Plaintiff has been actively involved in this case since the filing of his motion to
13 stay, including filing the September 25, 2017 motion. (ECF No. 18.) Because Plaintiff is
14 participating in this action and has been granted a 60 day extension of time to file a
15 second amended complaint (ECF No. 19), it appears he is no longer in need of the
16 requested stay. Accordingly, his motion to stay is found to be moot.

17 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion to stay (ECF No.
18 12) is DENIED AS MOOT.

19 IT IS SO ORDERED.

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21 Dated: October 14, 2017

/s/ Michael J. Seng
22 UNITED STATES MAGISTRATE JUDGE
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