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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS LEE SWYGERT,

Plaintiff,

Case No. 2:06-cv-00725 ALA (P)

vs.

MARTIN VEAL, et al.,

ORDER

Defendants.

_____ /

Plaintiff Curtis Lee Swygert (“Swygert”) is a state prisoner proceeding with counsel in this civil rights action brought pursuant to 42 U.S.C. § 1983. Swygert alleges constitutional violations under the First Amendment, Fourteenth Amendment, and the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. §§ 2000cc-2000cc-5.

On November 26, 2008, this Court issued an order that Mike Knowles replace Martin Veal for all allegations made by Swygert against the warden in his official capacity (Doc. No. 64). On December 11, 2008, Defendants filed a request to modify the November 26th order because Mike Knowles had “left CMF, and Kathleen Dickinson is serving as Acting Warden.” (Doc. No. 64.)

On December 31, 2008, Swygert filed a motion to amend the complaint and for judicial notice (Doc. No. 67). Swygert asked to add Mike Knowles to replace Martin Veal in his official

1 capacity, to add Matthew Cate in his official capacity as the secretary of California Department
2 of Corrections (“CDCR”), and to add CDCR to address attorney’s fees and costs under 42 U.S.C.
3 § 1983.

4 On January 6, 2009, this Court ordered that Defendants file a response to Swygert’s
5 motion (Doc. No. 69).

6 On January 20, 2009, the Defendants filed a response (Doc. No. 71). Defendants
7 responded that they “do not oppose naming CDCR Secretary Cate as the Defendant for
8 Swygert’s injunctive relief claims” and that they “do not oppose Swygert’s request for judicial
9 notice of facts showing Cate to be the proper Defendant for the injunctive relief claims.” There
10 are no other legal arguments or responses provided to Swygert’s motion to amend the complaint
11 and for judicial notice.

12 Therefore, IT IS HEREBY ORDERED that:

- 13 1. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kathleen
14 Dickinson shall replace Defendants Martin Veal and Mike Knowles in their
official capacity as warden of the California Medical Facility (“CMF”); and
- 15 2. Swygert’s December 31, 2008 motion for judicial notice (Doc. No. 67) is
16 GRANTED; and
- 17 3. Swygert’s December 31, 2008 motion to amend the complaint (Doc. No. 67) is
18 GRANTED; Swygert may name (1) Kathleen Dickinson in her official capacity
as warden of CMF, (2) Matthew Cate, the secretary of the CDCR, and (3) the
CDCR as additional Defendants in the amended complaint; and
- 19 4. Swygert’s amended complaint shall be filed on or before February 4, 2009; and
- 20 5. Pursuant to Rule 15(a)(3) of the Federal Rules of Civil Procedure, Defendants’
21 answer to Swygert’s amended complaint shall be filed within 10 days after
service thereof.

22 ////

23 DATED: January 20, 2009

24 _____ /s/ Arthur L. Alarcón
25 UNITED STATES CIRCUIT JUDGE
26 Sitting by Designation