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

TOMMY RAY BROWN,

Plaintiff,

No. CIV S-07-0956 MCE DAD P

vs.

G. MARSHALL, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se. Plaintiff seeks relief pursuant to 42 U.S.C. § 1983.

On May 31, 2011, plaintiff filed an opposition to defendants’ motion for summary judgment. On June 3, 2011, plaintiff filed a motion to amend his opposition, together with a proposed amended opposition. On June 15, 2011, the court granted plaintiff’s motion to amend and instructed the parties to proceed on plaintiff’s amended opposition. Thereafter, defendants filed a reply in support of their motion for summary judgment.

On July 27, 2011, plaintiff filed the pending motion, asking the court to file his “original” motion to amend and his “original” proposed amended opposition. He has also filed his “original” motion to amend, together with his “original” proposed amended opposition. In short, plaintiff explains that he had mailed his “original” filings as well as a copy of his filings to

1 the court in two separate envelopes. However, the United States Postal Service informed him
2 that the contents of one of the envelopes was lost. According to plaintiff, his “original” motion
3 to amend and his “original” proposed amended opposition were lost. The court received and
4 filed the copy of his filings. Concerned that some pages may be missing from the copy of his
5 filings, plaintiff has filed the pending motion as well as his “original” motion to amend his
6 opposition and his “original” proposed amended opposition.

7 The court has conducted a cursory review of plaintiff’s filings, and both the
8 “original” filings and the copies submitted by plaintiff appear virtually identical. However, out
9 of an abundance of caution, the court will grant plaintiff’s pending motion and file his “original”
10 motion to amend and his “original” proposed amended opposition. Once more, the court will
11 also grant plaintiff’s motion to amend, and the case will proceed on plaintiff’s most recently filed
12 “original” amended opposition. Finally, the court will allow defendants additional time to review
13 plaintiff’s “original” amended opposition and file a supplemental reply, if any, in support of their
14 motion for summary judgment.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff’s motion to file his “original” motion to amend and “original”
17 proposed amended petition (Doc. No. 67) is granted;
18 2. Plaintiff’s “original” motion to amend his opposition (Doc. No. 69) is granted;
19 3. The case will proceed on plaintiff’s “original” amended opposition (Doc. Nos.
20 70 & 71); and
21 4. Within fourteen days of the date of this order defendants may file a
22 supplemental reply, if any, in support of their motion for summary judgment.

23 DATED: October 5, 2011.

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25 DAD:9
26 brow0956.oppn



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE