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

JAMES EVANS,

Plaintiff,

No. 2:09-cv-0292-WBS-JFM (PC)

vs.

FELKER, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This matter is before the court on plaintiff’s motion for leave to file an amended complaint. Plaintiff seeks to add California Attorney General Edmund G. Brown, Jr. and his office as defendant in this actions. Defendants oppose the motion.

Rule 15 of the Federal Rules of Civil Procedure provides that leave to amend a pleading should be freely given “when justice so requires.” Fed. R. Civ. P. 15(a)(2). Pursuant to Rule 15, “leave to amend should be granted unless amendment would cause prejudice to the opposing party, is sought in bad faith, is futile, or creates undue delay.” Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citing DCD Programs, Ltd. v. Leighton, 833 F.2d 180, 185-87 (9th Cir. 1987).

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1 This action is proceeding on plaintiff's third amended complaint, filed August 20,
2 2009. Plaintiff has not filed a proposed fourth amended complaint with his motion. Moreover,
3 review of the motion shows that plaintiff seeks to add the two new defendants to his claim that
4 he was improperly transferred to High Desert State Prison (High Desert). That claim has been
5 dismissed by the district court. See Order filed May 5, 2010 (adopting in full Findings and
6 Recommendations filed March 30, 2010). Accordingly, plaintiff's proposed amendment is futile.
7 For these reasons, plaintiff's motion to amend will be denied.

8 In accordance with the above, IT IS HEREBY ORDERED that plaintiff's April
9 12, 2010 motion for leave to amend is denied.

10 DATED: May 11, 2010.

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13 UNITED STATES MAGISTRATE JUDGE

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