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

CHESTER JOHNSON,

Plaintiff,

No. CIV S-09-2076 EFB P

vs.

J. LEE, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to plaintiff’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

By order filed February 9, 2011, the court found that plaintiff had stated a cognizable claims against defendants Lee and Chirilla and informed plaintiff he could proceed against those defendants or file an amended complaint to attempt to state additional cognizable claims against defendant Orrick. The court also informed plaintiff that it would consider plaintiff’s decision to proceed only as to his claims against defendants Lee and Chirilla as consent to the dismissal of his claims against defendant Orrick. On March 7, 2011, plaintiff returned documents for service against defendants Lee and Chirilla, electing not to file an amended complaint to attempt to state

1 a cognizable claim against defendant Orrick.

2 Accordingly, IT IS HEREBY ORDERED that plaintiff's claims against defendant Orrick
3 are dismissed without prejudice.

4 Dated: April 12, 2011.



5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE

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