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

ROBERT P. BENYAMINI,

Plaintiff,

No. CIV S-10-0101 FCD GGH P

vs.

V. OGBEIDE, et al.,

Defendants.

ORDER

_____/

Plaintiff filed a “motion for stay while appealing.” Plaintiff stated that he was appealing the court’s April 30, 2010, order dismissing two defendants with leave to amend. Plaintiff’s untimely motion for reconsideration of that order was denied by an order filed on June 28, 2010. Thereafter, the August 18, 2010 findings and recommendations recommending dismissal of the two defendants, Ogbeide and Vicks, were adopted by order filed on September 2, 2010, and these defendants were dismissed from this action. Service has been directed upon the remaining two defendants. See Order, filed on September 29, 2010.¹ In addition, on November 2, 2010, the Ninth Circuit Court of Appeal filed an order denying plaintiff permission to appeal.

¹ By order filed on November 16, 2010, plaintiff was directed to provide additional information as to one of these defendants, Byrd, because process directed to this individual had been returned unserved. An executed waiver of service has been returned for the other defendant, Baker. See docket # 20, filed on November 4, 2010.

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Accordingly, IT IS ORDERED that plaintiff's motion for a stay pending appeal, filed on September 22, 2010 (docket # 16), is vacated from this court's calendar as both inapposite and moot.

DATED: November 22, 2010

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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