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

CHARLES CORNELIUS JAMES,

Plaintiff,

No. CIV S-10-1171 LKK DAD P

vs.

DEEPAK MEHTA, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner seeking relief pursuant to 42 U.S.C. § 1983. On May 19, 2010, the court dismissed plaintiff’s complaint with leave to amend because it appeared that the claims plaintiff presented in this action that were duplicative of those presented in another civil rights action currently pending in this court, James v. Hubbard, 2:08-CV-01857 RRC. The court advised plaintiff that he should file an amended complaint setting forth only those claims that were not already alleged in his third amended complaint filed in James v. Hubbard.

On June 2, 2010, plaintiff filed a motion for reconsideration, wherein he explains that he is precluded in James v. Hubbard from litigating the claims the court deemed duplicative because he exhausted his administrative remedies with respect to those claims only after he filed that action. In support of his argument, plaintiff presents for the first time three Director Level decisions dated in 2010, which relate to the exhaustion of his claims.

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1 After considering plaintiff's new exhibits, the court finds that plaintiff should be
2 allowed to proceed with this action.¹ Accordingly, IT IS HEREBY ORDERED that the court's
3 May 19, 2010 order (Doc. No. 6) is vacated.

4 DATED: June 16, 2010.

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7 _____
8 DALE A. DROZD
9 UNITED STATES MAGISTRATE JUDGE

8 DAD:sj
9 jame1171.23vac

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¹ Plaintiff's complaint must still be screened and the court will do so in due course.