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

MARLIN PENN,

Plaintiff,

No. 2:10-cv-2654 JFM (PC)

vs.

U.S. DEPT. OF JUSTICE, et al.,

Defendant.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. The above-captioned action was opened on September 29, 2010, with the filing of civil rights complaint. On October 8, 2010, plaintiff filed a document styled as a motion to consolidate the complaint filed in this action with Case No. 2:10-cv-2494 EFB (PC). In that motion, plaintiff represents that the complaint filed in this action is in fact a copy of the complaint filed in the latter case. Good cause appearing, plaintiff's request will be construed as a request for voluntary dismissal of this action and, so construed, will be granted. This action will be dismissed without prejudice to plaintiff's right to proceed, as appropriate, in Case No. 2:10-cv-2494 EFB (PC).

In accordance with the above, IT IS HEREBY ORDERED that:

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1. Plaintiff's October 8, 2010 motion is construed as request for voluntary dismissal of this action and, so construed, is granted;

2. This action is dismissed without prejudice; and

3. The Clerk of the Court is directed to send a copy of this order to the Honorable Edmund F. Brennan.

DATED: November 15, 2010.


UNITED STATES MAGISTRATE JUDGE

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