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

JUAN LORENZO RANKIN,

Plaintiff,

No. CIV 2:11-cv-0145-MCE-JFM

vs.

SUISIN POLICE DEP'T, et al.,

Defendants.

ORDER

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On July 12, 2012, the court held a status conference in this case. Juan Rankin appeared in pro per. Erika Scott appeared on behalf of defendants. At the conference, discussion was also had regarding plaintiff's June 25, 2012 motion to amend. Upon consideration of the status reports on file in this action, plaintiff's motion to amend and defendants' opposition, discussion of plaintiff and counsel and good cause appearing therefor, THE COURT FINDS

By order filed August 18, 2011, plaintiff's first amended complaint was found to state a claim against defendants Arroyo, Sousa and Martinez, but not as to any of the remaining named defendants (the Suisun Police Department and Eric Riley). Plaintiff was provided an opportunity to file a second amended complaint ("SAC") within thirty days and was cautioned that if he did not file a SAC, the court would proceed with the first amended complaint as screened in the August 18, 2011 order. Because plaintiff did not file a SAC within the requisite

1 time period, the court ordered service as to defendants Arroyo, Sousa and Martinez. See Doc.  
2 No. 12. Pending before the court now is plaintiff's June 25, 2012 motion to amend and a copy of  
3 a SAC. Plaintiff does not explain why he is filing his SAC many months after leave to amend  
4 was granted. Defendants oppose plaintiff's request to amend on the grounds that the motion is  
5 untimely, they will be prejudiced, and, lastly, leave to amend would be futile.

6           The court has reviewed the SAC and finds that it names the same individual  
7 defendants identified above, but also again names the Suisin Police Department and additionally  
8 names the Suisin City Police ABAG Insurance Plan. The SAC sets forth detailed allegations  
9 concerning his arrest and excessive force claim against defendants Arroyo, Sousa and Martinez.  
10 He also adds a new claim for sexual harassment / sexual assault against defendant Sousa.

11           As to the Suisun Police Department, this is plaintiff's third attempt to state a  
12 claim against this entity and has again failed to assert any charging allegations in support of a  
13 claim. Plaintiff has now twice been informed that to impose municipal liability under § 1983 for  
14 a violation of constitutional rights, he must show: (1) that he possessed a constitutional right of  
15 which he was deprived; (2) that the municipality had a policy; (3) that this policy amounts to  
16 deliberate indifference to plaintiff's constitutional rights; and (4) that the policy is the moving  
17 force behind the constitutional violation. See Doc. Nos. 3, 6. Because plaintiff has failed for a  
18 third time to make this showing, the Suisun Police Department will be dismissed with prejudice.

19           As to the Suisin City Police ABAG Insurance Plan, plaintiff brings claims for  
20 declaration of insured status, breach of the insurance contract, breach of the duty of good faith  
21 and fair dealing, and for violation of the Consumer Protection Act. Plaintiff, however, sets forth  
22 no allegations as to this defendant.

23           Based on the foregoing, IT IS HEREBY ORDERED that:

24           1. Plaintiff's motion for leave to amend is partially granted. This action will  
25 proceed on plaintiff's June 25, 2012 SAC as to defendants Arroyo, Sousa, and Martinez,  
26 including plaintiff's new sexual harassment / sexual assault claim as to Sousa. Defendant Suisun

