

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

TONY ASBERRY,

Plaintiff,

No. 2: 11-cv-2462 KJM KJN P

vs.

MATTHEW CATE, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel, with this civil rights action seeking relief pursuant to 42 U.S.C. § 1983.

On April 5, 2013, plaintiff filed a motion to amend his complaint. Plaintiff's motion was not, however, accompanied by a proposed amended complaint. As a prisoner, plaintiff's pleadings are subject to evaluation by this court pursuant to the in forma pauperis statute. See 28 U.S.C. § 1915A. Because plaintiff did not submit a proposed amended complaint, the court is unable to evaluate it. For this reason, the motion to amend is denied.

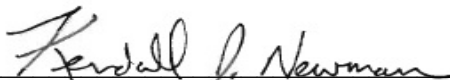
In the motion to amend, plaintiff alleges that he incorrectly named defendant Dr. Chen as a defendant. Plaintiff alleges that he believed that Dr. Chen was inmate Wilson's psychologist. Plaintiff alleges that he now realizes that Dr. Chen was not inmate Wilson's psychologist. Plaintiff alleges that he will not know the name of inmate Wilson's psychologist

1 until after he conducts discovery. Plaintiff requests information regarding how to proceed as to
2 this matter.

3 If defendant Chen is improperly named as a defendant, then plaintiff may file a
4 motion to voluntarily dismiss defendant Chen. Plaintiff may not file a motion to amend his
5 complaint and proposed amended complaint naming inmate Wilson's doctor as a defendant until
6 he knows the name of that person.

7 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to amend (dkt.
8 no. 99) is denied.

9 DATED: May 2, 2013

10
11 
12 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

13 as2462.den
14
15
16
17
18
19
20
21
22
23
24
25
26