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

TIMOTHY O’KEEFE,

Plaintiff,

No. 2: 11-cv-2659 KJM KJN P

vs.

JERRY BROWN, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. On January 2, 2012, the undersigned granted defendants’ motion to dismiss plaintiff’s second amended complaint with leave to file a third amended complaint. Pending before the court is plaintiff’s third amended complaint. For the following reasons, the third amended complaint is dismissed with leave to file a fourth amended complaint.

At the time plaintiff filed the third amended complaint, he was housed at the R. J. Donovan Correctional Facility (“RJDCF”). Named as defendants in the third amended complaint are Karen Higgins, the Chief Psychiatrist for the California Department of Corrections and Rehabilitation (“CDCR”), RJDCF Warden Paramo, and RJDCF Psychologists Greenwald and McCarthy. Plaintiff alleges that he has not received adequate mental health treatment for exhibitionism, voyeurism and paraphilia. Plaintiff seeks injunctive relief only. In particular,

1 plaintiff requests that the court order defendants to provide him with adequate psychiatric
2 treatment for exhibitionism, voyeurism and paraphilia.

3 On April 10, 2013, plaintiff filed a notice of change of address. Plaintiff alleges
4 that he is temporarily housed at the California Medical Facility (“CMF”). Plaintiff alleges that he
5 was on his way to Mule Creek Street Prison (“MCSP”) when he was placed in a temporary crisis
6 bed at CMF. Plaintiff alleges that he will inform the court as soon as he receives permanent
7 placement.

8 When an inmate seeks injunctive relief concerning an institution at which he is no
9 longer incarcerated, his claims for such relief become moot. See Sample v. Borg, 870 F.2d 563
10 (9th Cir. 1989); Darring v. Kincheloe, 783 F.2d 874, 876 (9th Cir. 1986). See also Reimers v.
11 Oregon, 863 F.2d 630, 632 (9th Cir. 1988). Because plaintiff’s third amended complaint seeks
12 injunctive relief regarding conditions at RJDCF, where he is no longer housed, the third amended
13 complaint is dismissed with leave to amend.


14 Because plaintiff is not yet housed at the prison where he will be permanently
15 housed, the court understands that it may be difficult for plaintiff to prepare and file a fourth
16 amended complaint at this time. Moreover, once plaintiff arrives at the prison where he is to be
17 permanently housed, plaintiff may not immediately know whether he will receive the mental
18 health treatment he seeks. While plaintiff is granted thirty days to file a fourth amended
19 complaint, the court understands that he may require additional time if he has not been
20 transferred to the prison where he is to be permanently housed within that time. If plaintiff
21 remains at CMF in the crisis bed for an extended period of time, plaintiff may consider
22 dismissing this action without prejudice to its refile once he receives permanent housing.

23 In dismissing plaintiff’s third amended complaint with leave to amend on grounds
24 of mootness, the undersigned refers to the January 2, 2013 order granting defendants’ motion to
25 dismiss. In this order, the undersigned found that plaintiff’s systemic claims concerning mental
26 health care must be brought through the Coleman class action. See Coleman v. Schwarzenegger,

1 No. 2: 90-cv-0520 LKK JFM (E.D. Cal.). The January 2, 2013 order also advised plaintiff to
2 name as defendants those persons responsible for the alleged denial of personal mental health
3 care. Accordingly, the fourth amended complaint shall name as defendants those persons at the
4 prison where plaintiff is permanently housed who are responsible for the alleged denial of
5 personal mental health care. Plaintiff is cautioned that the fourth amended complaint must make
6 clear the specific treatment, or lack of treatment, he alleges demonstrates deliberate indifference
7 to his serious mental health needs.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff's third amended complaint
9 is dismissed with thirty days leave to file a fourth amended complaint.

10 DATED: May 3, 2013

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13 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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