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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 MACK WEST, Jr.,

12 Plaintiff,

13 v.

14 NOEL DIZON,

15 Defendant.
16

No. 2:12-cv-1293 MCE DAD P

ORDER

17 Plaintiff is a state prisoner proceeding pro se with an action for alleged civil rights
18 violations pursuant to 42 U.S.C. § 1983. On January 9, 2014, the court denied plaintiff's
19 renewed requests for the issuance of subpoenas duces tecum, which plaintiff argued were
20 necessary to allow him to communicate with other state prison inmates who he believes can
21 provide testimony in support of his claims against the defendant. (Dkt. No. 66.) The court also
22 denied any request by plaintiff to order the California Department of Corrections and
23 Rehabilitation (CDCR) to facilitate communication between plaintiff and other state prison
24 inmates who plaintiff claims are potential witnesses in this civil action. (Id.) Plaintiff now has
25 moved the court to amend its decision denying those requests. He argues that the defendant and
26 defendant's counsel made material misrepresentations in opposing his efforts to contact other
27 inmates for purposes of this litigation and that those alleged misrepresentations constitute new
28 evidence justifying reversal of the court's decision. See Motion to Amend the Judgment (Doc.

1 No. 75). Defendant has filed a timely opposition. (Doc. No. 81.)

2 On April 18, 2014, the defendant filed a notice that he was withdrawing his opposition to
3 plaintiff's motion, stating that "in light of further investigation and review by several prisons,
4 [defendant] no longer opposes Plaintiff's request to correspond with particular inmates provided
5 that standard security precautions – consistent with state regulations – are followed[.]" (Notice of
6 Withdrawal (Doc. No. 99) at 1.) Defendant represents that "the Litigation Coordinators at the
7 prisons where Plaintiff and the inmates are housed have reviewed inmates' central files and
8 determined there are no obvious safety or security concerns in allowing Plaintiff to correspond
9 with [other inmates with CDCR]." (Id. at 2.)

10 Before the defendant filed the notice of April 18, plaintiff tried (and tried) to obtain this
11 court's aid in contacting other inmates because, according to him, prison officials unjustifiably
12 obstructed his ability to contact them himself. Having now heard from the defendant that the
13 obstruction has been removed, the court finds no action on its prior decisions is necessary.¹ The
14 motion to amend the court's previous decision in light of alleged "new evidence" has been
15 rendered moot. Based on defense counsel's representations, the court anticipates that plaintiff
16 will now be allowed to communicate with the inmates he believes can provide evidence with
17 respect to his claims in this action.

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23 ¹ Plaintiff filed a response to defendant's notice that defendant no longer opposes plaintiff's
24 corresponding with other inmates. That response concludes with new demands for injunctive
25 relief, including use of the prison phone to contact potential witnesses. (Doc. No. 104 at 5.)
26 Plaintiff's history as a litigant in this case demonstrates he is aware that he must seek such relief
27 through a formal motion, not by appending new demands at the end of a response. Insofar as
28 plaintiff has not filed a separate motion for any sort of relief in the four months since his
immediate response to defendant allowing the access that he originally wanted, the court has no
reason to construe plaintiff's latest "Prayer for Relief" or any other part of his response as a
separate motion that requires resolution.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion to amend judgment (Doc. No. 75) is denied as moot.
2. Plaintiff's motions for extensions of time (Doc. Nos. 97, 100, and 102) are denied as moot.

Dated: September 9, 2014



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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