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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTHUR ANDERSON,
Plaintiff,
v.
McINTRNY, et al.,
Defendants.

No. 2:14-cv-0011 CKD P

ORDER AND
FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner, proceeding pro se and in forma pauperis, who seeks relief pursuant to 42 U.S.C. § 1983. On April 24, 2014, plaintiff’s Second Amended Complaint (“SAC”) was dismissed with thirty days’ leave to amend. (ECF No. 17.) On May 27, 2014, plaintiff filed a motion for leave to file a Third Amended Complaint, “and alternatively to file the attached pleading as an amendment to [the] original.” Plaintiff’s motion includes additional allegations. (ECF No. 18.)

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2).

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1 Here, plaintiff's motion to file an amended complaint is moot, as he was previously
2 granted leave to amend. Plaintiff has not filed a stand-alone Third Amended Complaint within
3 thirty days of the April 24, 2014 order, as directed. Moreover, to the extent plaintiff intends to
4 supplement the SAC with the "attached pleading," his allegations do not state a cognizable claim.
5 Even if plaintiff were to file a Fourth Amended Complaint including these allegations along with
6 his previous allegations, the result would be dismissal. See Local Rule 220 (requiring an
7 amended complaint be complete in itself without reference to any prior pleading). Because it
8 appears that another round of amendment would be futile, the undersigned will recommend that
9 this action be dismissed.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. Plaintiff's motion for leave to amend (ECF No. 17) is denied as moot; and
- 12 2. The Clerk of Court is directed to assign a district judge to this action.

13 IT IS HEREBY RECOMMENDED that this action be dismissed for failure to state a
14 claim.

15 These findings and recommendations are submitted to the United States District Judge
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
17 after being served with these findings and recommendations, plaintiff may file written objections
18 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
19 and Recommendations." Plaintiff is advised that failure to file objections within the specified
20 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
21 (9th Cir. 1991).

22 Dated: June 4, 2014

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25 CAROLYN K. DELANEY
26 UNITED STATES MAGISTRATE JUDGE

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