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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GUILLERMO TRUJILLO,

Plaintiff,

v.

HITHE,

Defendant.

No. 2:14-cv-0584 JAM AC P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Now pending before the court are defendant Hithe’s motion for leave to file an amended answer (ECF No. 83) and motion for security (ECF No. 85). On August 2, 2017, the court denied plaintiff’s request for an extension of time to file a supplemental complaint (ECF No. 88), but extended the deadline to file responses to defendant’s pending motions by thirty days from the date of the order. ECF No. 89.

On August 11, 2017, plaintiff filed a motion to amend complaint. ECF No. 90. He states that he seeks to amend his complaint in order to “make changes and correct mistakes or misrepresentations” and to “argue for dismissal to post security.” Id. at 1.¹ Plaintiff goes on to restate his excessive force allegations against defendant. Id. at 2-3. He also alleges that Hithe

¹ The court notes that plaintiff’s handwriting is small and often faint. As such, his motion is difficult to decipher.

1 and another correctional officer named Castro were involved in filing a “falsified criminal report”
2 against him. Id. at 4-5. Plaintiff seeks to add Castro as a defendant to this action. Id. at 5. He
3 also appears to allege that his claims are not time-barred insofar as the inmate appeals office
4 failed to process his appeals properly. Id. at 7. Finally, plaintiff has attached approximately forty
5 pages of exhibits to his motion, most of which pertain to his prison appeals. Id. at 10-51.

6 Plaintiff’s motion to amend will be denied. The scheduling order in this case dictates that
7 discovery in this case was closed on April 19, 2017 and pretrial motions were due on July 19,
8 2017. ECF No. 76. The court finds that allowing plaintiff to add new claims and defendants at
9 this late date would prejudice defendant Hithe and delay proceedings. See, e.g. Solomon v.
10 North American Life and Cas. Ins. Co., 151 F.3d 1132, 1139 (9th Cir. 1998) (finding that district
11 court did not abuse its discretion in denying motion to amend on grounds of undue delay and
12 prejudice where motion made on the “eve of the discovery deadline” would have required re-
13 opening discovery, thus delaying proceedings). Moreover, plaintiff has not offered any
14 convincing justification for waiting until this late hour to move to amend his claims.

15 To the extent plaintiff seeks to contest defendant’s pending motions he may do so in
16 properly filed responses. The deadline for doing so remains September 4, 2017.² If plaintiff
17 believes he needs additional time to respond he may move for a reasonable extension.

18 It is THEREFORE ORDERED that:

19 1. The Clerk of Court shall alter the docket to reflect that plaintiff’s “Third Amended
20 Prisoner Civil Rights Complaint” (ECF No. 90) is more appropriately a “Motion to Amend
21 Complaint”;

22 2. Plaintiff’s motion to amend complaint (ECF No. 90) is DENIED;

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28 ² September 2, 2017 falls on a Saturday.

