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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRYAN EDWARD MAZZA,  
Plaintiff,  
v.  
L. AUSTIN, et al.,  
Defendants.

No. 2:14-cv-0874 AC P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with this civil rights action seeking relief pursuant to 42 U.S.C. § 1983.

On September 24, 2014, plaintiff filed: (1) a motion for leave to amend his complaint; (2) his second motion for appointed counsel; (3) his second motion for an appointed expert; and (4) a motion to dismiss defendants J. McCue, G. Swarthout, J. Kelso and J. Beard. The motions are resolved as follows.

1. By order dated September 2, 2014, the court dismissed defendants G. Swarthout, J. Kelso, J. Beard, A. Pfile and Dr. J. Lipson. In addition, plaintiff was instructed that he could submit service documents for defendants L. Austin, Dr. M. Kuersten, Dr. J. McCue, and Dr. R. Tan or he could file an amended complaint. ECF No. 15. Rather than choosing either option, plaintiff has elected to return some service documents as well as file a motion for leave to amend his complaint and a motion to dismiss particular defendants (ECF Nos. 18, 19 & 24). The court

1 has already granted plaintiff leave to amend, so no formal motion to amend is necessary.  
2 Additionally, plaintiff may choose which defendants to proceed against by naming them his  
3 amended complaint, so no formal motion to dismiss is necessary. Accordingly, the court will  
4 deny both of these motions as unnecessary but will, sua sponte, grant plaintiff a 30-day extension  
5 of time to file his amended complaint.

6 2. Plaintiff's second motion to appoint counsel is identical to his first motion to appoint  
7 counsel, which the court denied (ECF No. 13). This second motion does not assert any change in  
8 law or facts that could warrant a different result. Accordingly, this motion (ECF No. 20) will be  
9 denied without prejudice, for the reasons stated in the court's order denying the earlier motion.

10 3. Plaintiff's second motion to appoint an expert is nearly identical to his first motion to  
11 appoint an expert, which the court denied (ECF No. 12). The second motion does not assert any  
12 change in law or facts that would warrant a different result. The second motion does include a  
13 declaration signed by the plaintiff, however the facts asserted there do not address the basis for  
14 the court's denial of the first motion. Accordingly, this motion (ECF No. 21) will be denied  
15 without prejudice, for the reasons stated in the court's order denying the earlier motion.

16 Accordingly, for the reasons stated above, IT IS HEREBY ORDERED that:

- 17 1. Plaintiff's Motion To Amend Complaint (ECF No. 19) is DENIED, and plaintiff  
18 SHALL FILE his amended complaint within 30 days from the date of this order;  
19 2. Plaintiff's Motion for Appointment of Counsel (ECF No. 20) is DENIED;  
20 3. Plaintiff's Motion for Appointment of Expert Witness (ECF No. 21) is DENIED;  
21 4. Plaintiff's Motion to dismiss several defendants (ECF No. 24) is DENIED.

22 DATED: September 30, 2014

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24 ALLISON CLAIRE  
25 UNITED STATES MAGISTRATE JUDGE  
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