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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEAN C. RODRIGUEZ,
Plaintiff,
v.
JEFFREY BEARD, et al.,
Defendants.

No. 2: 14-cv-1049 MCE KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for amendment pursuant to Federal Rule of Civil Procedure 60(b). (ECF No. 48.) In this motion, plaintiff requests that the court amend the May 19, 2015 order dismissing this action. For the reasons stated herein, plaintiff’s motion is granted.

On April 3, 2015, the magistrate judge recommended that defendants’ motion to sever be granted. (ECF No. 45.) The magistrate judge recommended that the retaliation claim against defendant Matis be dismissed, and that this action proceed solely on the claims against defendants Foulk and St. Andre. The findings and recommendations noted that if plaintiff preferred to proceed solely on his retaliation claim against defendant Matis (as opposed to proceeding solely on his race-based lockdown claim against defendants Foulk and St. Andre), plaintiff could notify the court of his preference in his objections.

1 On April 14, 2015, plaintiff filed objections to the findings and recommendations. (ECF
2 No. 46.) The court understood plaintiff's objections to request that the court dismiss all of
3 plaintiff's claims. Accordingly, the undersigned construed plaintiff's objections to contain a
4 Motion for Voluntary Dismissal pursuant to Federal Rule of Civil Procedure 41(a). (ECF No.
5 47.) On May 19, 2015, the undersigned granted plaintiff's motion for voluntary dismissal and
6 dismissed this action without prejudice. (Id.)

7 On May 29, 2015, plaintiff filed the pending motion. (ECF No. 48.) In this motion,
8 plaintiff states that in his objections, he meant to request only that his claims against defendants
9 Foulk and St. Andre alleging race based lockdowns be dismissed. Plaintiff states that he did not
10 intend to request dismissal of the entire action. Good cause appearing, plaintiff's motion for
11 relief is granted.

12 Accordingly, IT IS HEREBY ORDERED that:


13 1. Plaintiff's May 29, 2015 motion for amendment (ECF No. 48), brought pursuant to
14 Federal Rule of Civil Procedure 60(b), is granted;

15 2. The May 19, 2015 order (ECF No. 47) granting plaintiff's motion to voluntarily
16 dismiss this action is vacated; the Clerk of the Court is directed to reopen this action;

17 3. Plaintiff's claims against defendants Foulk and St. Andre are dismissed; this action will
18 proceed on plaintiff's retaliation claim against defendant Matis;

19 4. The Clerk of the Court is directed to serve a copy of this order on the Ninth Circuit
20 Court of Appeals.

21 Dated: July 8, 2015

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24 MORRISON C. ENGLAND, JR., CHIEF JUDGE
25 UNITED STATES DISTRICT COURT
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