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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TINO TUFUNO,

Plaintiff,

v.

L. PARKER, et al.,

Defendants.

No. 2:16-cv-2448 MCE DB P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. Plaintiff claims he was injured when defendants required his cellmate to push plaintiff in his wheelchair over a curb causing plaintiff to fall. Presently before the court is plaintiff’s motion to reinstate his state law claim. (ECF No. 38.)


Plaintiff requests that the court reinstate his state law negligence claim because he obtained a copy of the government claim form on June 23, 2019. By order dated November 15, 2018, the court found that plaintiff could not proceed with his state law claims because he failed to allege compliance with the California Government Claims Act. (ECF No. 21.) However, plaintiff was given the option to proceed only on his Eighth Amendment claim or to amend the complaint. (Id. at 7.) Plaintiff elected to proceed on his Eighth Amendment claims and voluntary dismiss his other claims. (ECF No. 22.) Because plaintiff previously agreed to voluntarily dismiss his state law claim, the court will deny the motion to reinstate his state law claim.

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Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to reinstate his state law claim (ECF No. 38) is denied.

Dated: July 23, 2019



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DLB:12
DLB:1/Orders/Prisoner Civil-Rights/tufo2448.mt.reinstate