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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

BRIAN SPEARS,
Plaintiff,
v.
EL DORADO COUNTY, et al.,
Defendants.

No. 2:16-CV-2655-TLN-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Before the Court is Plaintiff’s motion to amend his operative second amended complaint. ECF No. 38. He has properly filed a proposed third amended complaint alongside his motion. ECF No. 39. Defendants previously moved to dismiss, raising statute of limitations defenses that would bar many, if not all, of Plaintiff’s claims. See ECF Nos. 28, 32. The Court granted Plaintiff the opportunity to seek leave to amend to address statute of limitations issues. ECF No. 35.

Defendants do not oppose Plaintiff’s motion to amend or granting Plaintiff an opportunity to cure statute of limitations issues. ECF No. 40. Defendants ask the Court to screen Plaintiff’s third amended complaint under 28 U.S.C. § 1914A. Id. at 2. The Court is inclined to do so and will screen Plaintiff’s third amended complaint by separate order.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's unopposed motion to amend (ECF No. 38) is **GRANTED** and this case will proceed on Plaintiff's third amended complaint;
2. Defendants' motion to dismiss (ECF No. 28) is **STRICKEN** as going to a superseded complaint;
3. The Clerk of the Court is directed to terminate Defendants' motion to dismiss (ECF No. 28) as a pending motion; and
4. After screening, should this case proceed on any non-barred claims, Defendants may move the Court to take appropriate action.

Dated: March 23, 2021



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE