1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 PETER JON ELLIS, Case No. 2:22-cv-00823-DJC-JDP (PC) 12 Plaintiff. FINDINGS AND RECOMMENDATIONS 13 THAT PLAINTIFF'S MOTION TO AMEND v. **BE DENIED** 14 COUNTY OF EL DORADO, et al., ECF No. 38 15 Defendants. **OBJECTIONS DUE WITHIN FOURTEEN** 16 DAYS 17 18 Plaintiff, a pretrial detainee proceeding pro se, filed a civil rights action under 42 U.S.C. 19 § 1983. Plaintiff has filed a motion to amend the complaint, ECF No. 38, which defendant 20 opposes, ECF No. 39. For the reasons stated below, I recommend that plaintiff's motion be 21 denied. 22 Rule 15(a)(2) directs that a court "should freely give leave [to amend a complaint] when justice so requires." Courts should generally be liberal in allowing a party to amend. Sonoma 23 24 Cnty. Ass'n of Retired Emples. v. Sonoma Cnty., 708 F.3d 1109, 1117 (9th Cir. 2013). Leave to amend should be denied only where there is strong evidence of "undue delay, bad faith or dilatory 25 26 motive on the part of the movant, repeated failure to cure deficiencies by amendments previously 27 allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] 28 futility of amendment Id. (quoting Foman v. Davis, 371 U.S. 178, 182 (1962)) (alteration in 1

original). Of these elements, the prejudice to the opposing parties is assigned the greatest weight. *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003).

The entirety of plaintiff's motion to amend states, "[t]he plaintiff in the above matter is requesting to file an amended complaint with the Eastern District Court of California." ECF No.38. Defendant opposes, arguing that plaintiff's motion should be denied because he did not file a proposed amended complaint. ECF No. 39.

Plaintiff has not filed a proposed amended complaint, so I cannot analyze it properly. Additionally, plaintiff has not articulated any cause for amending his complaint. Therefore, I will recommend that plaintiff's motion to amend be denied without prejudice. *See Fletcher v. Dzurenda*, No. 2:18-CV-01077-RFB-VCF, 2020 WL 13748446, at *1 (D. Nev. June 16, 2020) (denying the pro se prisoner's motion to amend for failure to attach the proposed amended complaint).

Accordingly, it is hereby RECOMMENDED that plaintiff's motion to amend, ECF No. 38, be denied.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be served and filed within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

Dated:

May 13, 2024

IT IS SO ORDERED.

JERÉMY D. PETERSON

UNITED STATES MAGISTRATE JUDGE