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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES BRIAN HAMILTON,
Plaintiff,

No. C 12-4279 WHA (PR)

v.

**ORDER GRANTING MOTION TO
STAY DISCOVERY; DENYING
MOTION FOR LEAVE TO ADD
NEW DEFENDANT**

DR. JAVATE; DR. HEDDEN; R.N.
WALL; SRYN GRANT; DR. R.
DELGADO; DR. G. THIEL; L.D.
ZAMORA; J. KELSO,

(Docket Nos. 15, 22)

Defendants

_____ /

Plaintiff, a California prisoner proceeding pro se, filed this civil rights action under 42 U.S.C. 1983. His claim of deliberate indifference to his medical needs was found cognizable and the marshal served the defendants with the complaint. Defendants have filed a motion to dismiss the case pursuant to Rule 12(b)(6) of the Federal Rules of Civil procedure, for failure to state a claim upon which relief can be granted. Plaintiff's opposition is due on or before

January 28, 2013, and defendants' reply brief is due on or before **February 11, 2013**

Good cause appearing, defendants' motion to stay discovery (dkt. 15) until resolution of the motion to dismiss is **GRANTED**. Plaintiff has moved to "add" a new defendant, name a prison official named Mrs. Singh Lun who allegedly did not give him his afternoon medication on one occasion and who retaliated against him for filing grievances and court cases. The motion (dkt. 22) is **DENIED**. Plaintiff cannot add new claims or new defendants in this manner.

1 If he wishes to change the defendants or claims in his complaint, or add to them, he must file a
2 motion for leave to amend his complaint with his proposed amended complaint attached as an
3 exhibit to the motion.

4 Plaintiff is cautioned that any amended complaint supercedes the prior complaint. This
5 means that plaintiff must include all the claims he wishes to pursue in the amended complaint,
6 including any cognizable claims from his original complaint, and the amended complaint may
7 not incorporate his original complaint, or any part of it, by reference. Plaintiff is further
8 cautioned that if he continues to pursue the claims now pending in this case, he may only add
9 new claims or new defendants that are related to such claims. To the extent he wishes to add
10 unrelated new claims against defendants, he must do so in a new complaint filed in a new case.

11 Lastly, it is noted the new claim plaintiff wants to add does not appear to be exhausted.
12 Plaintiff is required to present his claims through all available levels of administrative review
13 before filing a claim in federal court. *See* 42 U.S.C. 1997e.

14 IT IS SO ORDERED.

15 Dated: January 14, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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