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E-Filed 12/17/08

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARTHUR SOWELL,

Plaintiff,

v.

COUNTY OF SANTA CLARA, et al.

Defendants.

Case Number C 07-5394 JF (PVT)

ORDER¹ DENYING PLAINTIFF'S
MOTION TO SHORTEN TIME FOR
HEARING; AND DENYING
PLAINTIFF'S MOTION FOR LEAVE
TO AMEND THE COMPLAINT

[Re: docket nos. 39, 41]

On December 5, 2008, the Court took Defendants' motion for summary judgment under submission. On December 12, 2008, Plaintiff filed a motion for leave to amend the complaint and a motion to shorten time for hearing. Plaintiff asserts that he erroneously sued the Sheriff of Santa Clara County, believing that the Sheriff operated the jail at which Plaintiff was injured, when in fact the Chief of Correction for Santa Clara County operates the jail. Plaintiff seeks leave to amend his complaint in order to name the Chief of Correction as a defendant.

The proposed amendment would be futile. In conjunction with the instant order, the Court has issued an order granting Defendants' motion for summary judgment. As set forth in

¹ This disposition is not designated for publication in the official reports.

1 detail in that order, the only remaining issue in this action is whether the County is liable under
2 the *Monell*² doctrine for the alleged constitutional violations pursuant to 42 U.S.C. § 1983.
3 Defendants have established that the County is *not* liable for reasons that have nothing to do with
4 the fact that Plaintiff failed to name the correct County representative as a defendant.

5 Accordingly, Plaintiff's motion for leave to amend is DENIED as futile, and his motion
6 to shorten time is DENIED as moot.

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8 DATED: December 17, 2008

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10 JEREMY FOGEL
11 United States District Judge
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² *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

1 This Order has been served upon the following persons:

2 This Order has been served upon the following persons:

3 Ashwin Virji Ladva aladva@yahoo.com

4 Mark F. Bernal mark.bernal@cco.sccgov.org, cathy.grijalva@cco.sccgov.org

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