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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JACIE LEE GOUDLOCK, JR.,

Plaintiff,

v.

THOMPSON, et als.,

Defendants.

Civil No. 08cv204 AJB(RBB)

**ORDER ADOPTING REPORT AND
RECOMMENDATION DENYING
DEFENDANT THOMPSON’S MOTION
TO DISMISS AS MOOT; AND
GRANTING PLAINTIFF’S MOTION
FOR LEAVE TO FILE A SECOND
AMENDED COMPLAINT**


[Doc. Nos. 52, 53.]

On February 1, 2008, Plaintiff Jacie Lee Goudlock, a state prisoner proceeding *pro se* and *in forma pauperis*, filed a civil rights complaint pursuant to 28 U.S.C. § 1983. (Dkt. No. 1.) On August 8, 2008, Plaintiff filed a first amended complaint. (Dkt. No. 7.) On September 15, 2009, the Court issued an order adopting the report and recommendation granting Defendant Peterson’s motion to dismiss without leave to amend. (Dkt. No. 34.) On October 13, 2010, the Court issued an order dismissing Defendant Cruz. (Dkt. No. 48.) On November 19, 2010, the remaining Defendant Thompson filed a motion to dismiss the first amended complaint. (Dkt. No. 52.) On December 2, 2010, Plaintiff filed a motion for leave to file a second amended complaint. (Dkt. No. 53.) On January 28, 2011, Magistrate Judge Brooks issued a Report and Recommendation recommending that Defendant Thompson’s motion to dismiss the first amended complaint be denied as moot and Plaintiff’s motion for leave to file a second amended complaint be granted. (Dkt. No. 59.) No objections have been filed to the report and recommendation. After having reviewed the report and recommendation, the Court ADOPTS the Report and Recommendation in its entirety and DENIES

1 Defendant Thompson's motion to dismiss the first amended complaint as MOOT and GRANTS
2 Plaintiff's motion for leave to file a second amended complaint. Plaintiff shall file a second
3 amended complaint no later than 30 days after the date of the filing of this order. Plaintiff should
4 note that all claims alleged in the First Amended Complaint which are not asserted in the Second
5 Amended Complaint will be considered waived. King v. Atiyah, 814 F.2d 565, 567 (9th Cir. 1987).

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DATED: March 29, 2011



Hon. Anthony J. Battaglia
U.S. District Judge
United States District Court