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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DEREK J. BLOODWORTH,
CDCR #F-53229,

Plaintiff,

vs.

COUNTY OF IMPERIAL, et al.,

Defendants.

Civil No. 09cv2672 MMA (PCL)

**ORDER GRANTING MOTION TO
STAND ON THE SECOND
AMENDED COMPLAINT AND
DIRECTING THE CLERK OF
COURT TO ENTER JUDGMENT
FOR THE DEFENDANTS**

[Doc. No. 36]

I. Procedural History

On November 30, 2009, Derek Bloodworth (“Plaintiff”), a former state inmate, filed this civil rights action pursuant to 42 U.S.C. § 1983. As required by 28 U.S.C. §§ 1915(e)(2) & 1915A, the Court conducted a sua sponte screening of Plaintiff’s Complaint, granted his Motion to Proceed *in forma pauperis* (“IFP”) and directed the U.S. Marshal to effect service of the Complaint. See Jan. 6, 2010 Order at 5-6.

On February 24, 2010, Defendants County of Imperial and Raymond Loera filed an Answer to Plaintiff’s Complaint [Doc. No. 7]. Plaintiff then filed a “Motion for Leave to File First Amended Complaint” and a “Motion for Order Directing the U.S. Marshal Serve Summons

1 and First Amended Complaint.” Magistrate Judge Peter Lewis issued an Order granting Plaintiff
2 permission to file a First Amended Complaint and denying his request for an order directing the
3 U.S. Marshal to effect service on the newly added Defendants.

4 Upon review of Plaintiff’s First Amended Complaint, the Court found that it was
5 appropriate to conduct a sua sponte screening of Plaintiff’s First Amended Complaint pursuant
6 to 28 U.S.C. § 1915(e)(2) (“[n]otwithstanding any filing fee, or any portion thereof, that may
7 have been paid, the court shall dismiss the case at any time if the court determines” that the
8 action is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks
9 monetary relief against a defendant who is immune.). The Court sua sponte dismissed Plaintiff’s
10 First Amended Complaint for failing to state a claim but provided him leave to file a Second
11 Amended Complaint to correct the deficiencies of pleading identified by the Court. *See* May
12 3, 2010 Order at 7-8. On May 28, 2010, Plaintiff filed his Second Amended Complaint
13 (“SAC”). The Court, once again, conducted a sua sponte screening of Plaintiff’s SAC pursuant
14 to 28 U.S.C. § 1915(e)(2). The Court found, once again, that Plaintiff failed to state a claim
15 upon which relief could be granted and he failed to exhaust his available administrative remedies
16 prior to filing the action. *See* July 19, 2010 Order at 8-9. The Court granted Plaintiff leave to
17 file a Third Amended Complaint. *Id.*

18 Plaintiff then sought leave for an extension of time to file his Third Amended Complaint
19 which was granted by the Court. *See* Oct. 8, 2010 Order at 1-2. Now, Plaintiff has filed a
20 “Motion to Stand on the Second Amended Complaint.” [Doc. No. 36].

21 **II. Motion to Stand on the Second Amended Complaint**

22 In this Motion, Plaintiff informs the Court that he does not intend to file a Third Amended
23 Complaint and requests that this Court issue a final Order so that he may appeal the Court’s
24 ruling to the Ninth Circuit Court of Appeals. Plaintiff indicates that he “respectfully disagrees
25 with this court’s conclusions of law and reading of his allegations.” (Pl.’s Mot. at 1.)
26 Accordingly, the Court will direct the Clerk of Court to enter a final judgment in this matter.

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1 **III. Conclusion and Order**

2 Good cause appearing therefor, **IT IS HEREBY ORDERED** that:

3 Plaintiff's "Motion to Stand on the Second Amended Complaint" is **GRANTED**.

4 Plaintiff's entire action is **DISMISSED** for all the reasons set forth in the Court's July 19, 2010
5 Order.

6 The Clerk of Court is directed to enter judgment for the Defendants and close the file.

7 **IT IS SO ORDERED.**

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9 DATED: December 20, 2010



10 Hon. Michael M. Anello
11 United States District Judge

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