IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD GOMEZ, Plaintiff, v. A. RAMIREZ, et al., Defendants.	No. 2:20-CV-0757-DMC-P ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion, ECF No. 16, for leave to file a first amended complaint. Attached to Plaintiff's motion at pages 2-9 is a proposed first amended complaint.

The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). In all other situations, a party's pleadings may only be amended upon leave of court or stipulation of all the parties. See Fed. R. Civ. P. 15(a)(2). Here, Plaintiff's motion and proposed amended complaint were filed within 21 days of the filing of Defendants' answer to the original complaint.

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Leave of Court is, therefore, not necessary. Plaintiff's motion will be denied as unnecessary, but the Clerk of the Court will be directed to file the amended complaint attached to Plaintiff's motion. By separate order, the Court has directed service of the first amended complaint on newly-named Defendant L. Eldridge.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for leave to amend, ECF No. 16, is denied as unnecessary; and

2. The Clerk of the Court is directed to file as a first amended complaint the proposed amended complaint attached to Plaintiff's motion at ECF No. 16, pgs. 2-9.

Dated: September 7, 2021

DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE