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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LEON E. MORRIS,  
Plaintiff,  
v.  
A.J.R. BRADFORD, et al.,  
Defendants.

No. 2:11-cv-1171 TLN DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action under 42 U.S.C. § 1983. On January 14, 2016 defendants moved for summary judgment. (ECF No. 70.) Plaintiff received multiple extensions of time to file an opposition. (See Orders dated Feb. 12, April 21, and Nov. 1, 2016 (ECF Nos. 73, 74, 82).) On July 13, 2016, plaintiff sought a temporary stay of these proceedings. (ECF No. 76.) On November 1, 2016, the court denied that request and informed plaintiff that he had thirty days to file an opposition to defendants’ motion for summary judgment. (ECF No. 82.)

On November 18, 2016, plaintiff filed a “declaration” in which he explains that he has been temporarily transferred to the psychiatric program at Salinas Valley State Prison and was not permitted to bring any of his legal property with him. Plaintiff states that he will not have access to his legal property until he returns to California State Prison-Sacramento (“CSP-Sacramento”).

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1 (ECF No. 83.) Plaintiff does not know how long he will be incarcerated at Salinas Valley. (Id.  
2 at 2.)

3 When the court considered plaintiff's prior motion for a stay, plaintiff had not been  
4 transferred to Salinas Valley and the court was unaware that plaintiff would not be permitted  
5 access to his legal materials if he was. Based on this new information, the undersigned construed  
6 plaintiff's November 18, 2016 filing as a motion for reconsideration and ordered defendants to  
7 respond. (ECF No. 84.) Defendants filed a response in which they confirm that plaintiff has been  
8 transferred to the psychiatric program at Salinas Valley State Prison due to mental health issues  
9 and that as a result of the transfer, plaintiff no longer has access to his legal paperwork because it  
10 is still at CSP-Sacramento. (ECF No. 85.) Defendants agree that a temporary stay is appropriate  
11 until plaintiff is returned to CSP-Sacramento and has access to his legal paperwork.

12 Accordingly, and good cause appearing, the undersigned HEREBY RECOMMENDS that

- 13 1. Plaintiff's motion for reconsideration (ECF No. 83) be granted;
- 14 2. This case be stayed until plaintiff is returned to CSP-Sacramento and has access to his  
15 legal materials;
- 16 3. Defendants' January 14, 2016 motion for summary judgment (ECF No. 70) be denied  
17 without prejudice to its renewal when the stay is lifted and the case re-opened;
- 18 4. Plaintiff be ordered to inform the court when he is returned to CSP-Sacramento; and
- 19 5. The Clerk of the Court be directed to administratively close this case.

20 These findings and recommendations will be submitted to the United States District Judge  
21 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
22 after being served with these findings and recommendations, any party may file written  
23 objections with the court and serve a copy on all parties. The document should be captioned  
24 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the  
25 objections shall be filed and served within seven days after service of the objections. The parties


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1 are advised that failure to file objections within the specified time may result in waiver of the  
2 right to appeal the district court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 Dated: December 22, 2016

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6 DEBORAH BARNES  
7 UNITED STATES MAGISTRATE JUDGE  
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10 DLB:9  
11 DLB1/prisoner-civil rights/morr1171.fr stay  
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