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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Michael Martin Sanders,

10 Plaintiff,

11 v.

12 Trinity Services Group Incorporated, et al.,

13 Defendants.
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No. CV-18-01471-PHX-JAT (DMF)

ORDER

15 Pending before the Court is Plaintiff Michael M. Sanders’ (“Plaintiff”) Objection
16 (Doc. 110) to a pretrial order of Magistrate Judge Deborah M. Fine (Doc. 109). The Court
17 now rules on the Objection (Doc. 110).

18 **I. BACKGROUND**

19 Plaintiff filed a complaint against Defendants Trinity Services Incorporated, et al.
20 (“Defendants”) alleging that Defendants violated Plaintiff’s Eighth Amendment rights
21 (Doc. 1). Specifically, Plaintiff claims that his Eighth Amendment rights were violated when
22 he was not granted an exception to the prison’s mechanical restraint policy and was given
23 a nutritionally deficient diet while incarcerated. (*See* Doc. 1 at 4–12). To date, Magistrate
24 Judge Fine has granted two extensions for Plaintiff to respond to the Motions for Summary
25 Judgment (Docs. 107, 109). In his October 29, 2020 motion, Plaintiff asked for an
26 additional extension of thirty (30) days. Magistrate Judge Fine’s November 2, 2020 Order
27 granted Plaintiff’s request for an extension, but only granted an extension of eleven (11)
28 days. In all, Magistrate Judge Fine has granted extensions of seventy-four (74) days from

1 the initial response deadline of August 31, 2020.

2 Plaintiff seeks relief from Magistrate Judge Fine’s November 2, 2020 Order (Doc.
3 109) under Federal Rule of Civil Procedure 72(a).

4 **II. LEGAL STANDARD**

5 This Court may modify or set aside any part of a pretrial order issued by a magistrate
6 judge that “is clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ.
7 P. 72(a). The Court will overturn a magistrate judge’s decision only if it is the result of
8 “clear error.” *Maisonville v. F2 Am., Inc.*, 902 F.2d 746, 747 (9th Cir. 1990) (citations
9 omitted). Under this standard of review, the Court “may not simply substitute its judgment
10 for that of the deciding court.” *Grimes v. City & County of San Francisco*, 951 F.2d 236,
11 241 (9th Cir. 1991) (citations omitted). Instead, the Court must have a “definite and firm
12 conviction that a mistake has been committed.” *Easley v. Cromartie*, 532 U.S. 234, 242
13 (2001) (citation omitted). The burden of making this showing is on the objecting party. *See*
14 *Kinkeade v. Beard*, No. 215CV01375TLNCDK, 2017 WL 2813037, at *2 (E.D. Cal. June
15 29, 2017).

16 **III. ANALYSIS**

17 Plaintiff contends that the Magistrate Judge’s order (Doc. 109) erred in two ways:
18 By not considering Plaintiff’s good cause showings, and by not considering that Plaintiff
19 must respond to multiple motions for summary judgment. (Doc. 110 at 2–4). The Court
20 will address each contention in turn.

21 **a. Plaintiff’s Good Cause Showings**

22 While it is not clear from Plaintiff’s Objection, Plaintiff’s primary argument appears
23 to be that Magistrate Judge Fine erred by not fully considering all of the circumstances
24 underlying Plaintiff’s multiple requests for extensions and only granting Plaintiff an
25 additional eleven-day (11) extension rather than the requested thirty-day (30) extension.
26 (*See* Doc. 110 at 2–5). Plaintiff asserts that the extension granted by Magistrate Judge Fine
27 fails to take into account the fourteen (14) days Plaintiff lost to a COVID-19 lockdown in
28 his unit (Doc. 105 at 4) and the twenty-one (21) days Plaintiff lost to “medical isolation”

1 (Doc. 105 at 2-3) for a total of thirty-five (35) lost days (Doc. 110 at 4). Essentially,
2 Plaintiff argues that Magistrate Judge Fine has not granted sufficient relief to address the
3 litany of issues he has encountered when drafting his responses to the two motions for
4 summary judgment and statements of facts (Docs. 95, 96, 100, and 101).

5 To date, Magistrate Judge Fine has granted a total extension of seventy-four (74)
6 days from the original deadline of August 31, 2020 to the extended deadline of November
7 13, 2020. (*See* Docs. 107, 109). In examining the multiple extensions granted by Magistrate
8 Judge Fine, the Court does not see any evidence she erroneously neglected to consider the
9 thirty-five (35) days mentioned in Plaintiff’s Objection. When added to the days in August
10 Plaintiff was not locked down (August 14–31, 2020) (Doc. 105 at 4), the total number of
11 days granted to draft a response to the motions for summary judgment and new statements
12 of fact far exceeds the thirty-day (30) time limit given in the original order (Doc. 102).
13 Moreover, Magistrate Judge Fine granted an additional eleven-day (11) extension to
14 Plaintiff even though, “[p]laintiff ha[d] not shown diligence or good cause for another
15 extension.” (Doc. 109). After reviewing the totality of the record, Magistrate Judge Fine
16 did not err in granting an additional eleven-day (11) extension, rather than the requested
17 thirty-day (30) extension, and the extensions granted far exceed the thirty-five-days (35)
18 Plaintiff claims to have lost.

19 **b. Responses to Multiple Motions for Summary Judgment**

20 Plaintiff also seems to argue that the Magistrate Judge engaged in an “abuse of
21 discretion” by not allowing additional response time for Plaintiff to complete separate
22 responses to the two pending motions for summary judgment. (Doc. 110 at 4). Plaintiff
23 argues that “the Magistrate Judge has not considered that Sanders is laboring to perfect two
24 responses to two motions for summary judgment.” (*Id.* at 4) (emphasis omitted). It should
25 be noted that Magistrate Judge Fine’s orders specifically mention that both motions for
26 summary judgment are pending, so it appears to the Court that Magistrate Judge Fine did
27 consider that Plaintiff needed to respond to both. (*See* Docs. 107, 109). Even if Magistrate
28 Judge Fine did not consider that Plaintiff had to submit responses to two motions for

1 summary judgment, it would still not amount to clear error. Although the Court
2 acknowledges the challenges Plaintiff has encountered as an incarcerated, pro se litigant,
3 responding to multiple motions for summary judgment does not rise to the level of good
4 cause for an extension as required by Federal Rule of Civil Procedure 6(b)(1)(A). *See*
5 *Ashby v. Mortimer*, No. 4:18-cv-00143-DCN, 2019 WL 1804440, at *2 (D. Idaho Apr. 24,
6 2019) (“[T]he fact that Plaintiffs must respond to two motions for summary judgment filed
7 days apart is hardly unique, inherent in litigation, and may not rise to the level of good
8 cause.”). Since answering two motions for summary judgment is an inherent aspect of
9 litigation—particularly in cases like this one where the Plaintiff has brought claims against
10 multiple defendants—Plaintiff is not entitled to an additional extension because he must
11 prepare two responses.

12 Further, Plaintiff asserts that his lack of “access to the modern tools of litigation”
13 due to his incarceration favors granting an additional extension. (Doc. 110 at 5). Plaintiff,
14 however, cites no legal precedent to support this argument. (*See id.*). The Supreme Court
15 has established the standard for legal research access that prison authorities must give to
16 prisoners as, “the (already well-established) right of *access to the courts.*” *Lewis v. Casey*,
17 518 U.S. 343, 350 (1996). Circuit courts have interpreted this standard as requiring a
18 plaintiff to show actual restriction of access to the court system (“actual injury”). *See*
19 *Strickler v. Waters*, 989 F.2d 1375, 1383–87 (4th Cir. 1993) (holding that reduced library
20 time and limited legal resources in library did not restrict Plaintiff’s access to the courts);
21 *see also Sowell v. Vose*, 941 F.2d 32, 35 (1st Cir. 1991) (finding that a delay of access to
22 legal materials that forced Plaintiff to obtain deadline extensions did not deny Plaintiff
23 access to the courts). Plaintiff has not been prevented from filing his claim or multiple
24 motions for extensions of response deadlines. (*See Docs. 1, 105, 108*). While legal
25 resources available to Plaintiff may not be ideal, the record does not support a finding that
26 Plaintiff has been deprived of his right of access to the courts.

27 Finally, the Court notes that even if Plaintiff had received the full thirty-day (30)
28 extension requested in his October 29, 2020 motion, Plaintiff’s response would have still

1 been filed late.

2 **IV. CONCLUSION**

3 Based on the foregoing,

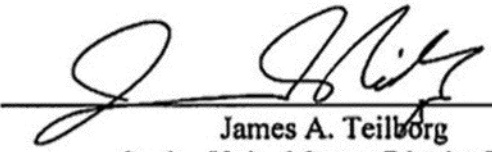
4 **IT IS ORDERED** that Plaintiff's Objection (Doc. 110) is **OVERRULED** and the
5 Magistrate Judge's order (Doc. 109) is **AFFIRMED**.

6 **IT IS FURTHER ORDERED** striking Plaintiff's late Responses and Statements
7 of Facts (Docs. 113, 116, 117), Defendants' Replies to the late Responses (Docs. 121, 123),
8 and Defendants' Response to Plaintiff's late Statements of Facts (Doc. 122).

9 **IT IS FURTHER ORDERED** that the Motions for Summary Judgment (Docs. 95,
10 100) will be considered as unopposed.

11 Dated this 26th day of January, 2021.

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James A. Teilborg
Senior United States District Judge