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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

QUETZAL CONTRERAZ,

1:04-cv-06039-LJO-GSA-PC

Plaintiff,

ORDER REQUIRING PLAINTIFF TO FILE
DECLARATION EXPLAINING REASONS
FOR DELAY, OR IN THE ALTERNATIVE,
TO FILE OPPOSITION TO MOTION TO
DISMISS
(Resolves Doc. 63.)

vs.

D. ADAMS, et al.,

Defendants.

THIRTY DAY DEADLINE

_____ /

Plaintiff Quetzal Contreras (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On May 17, 2010, Defendant Adams filed a motion to dismiss this action. (Doc. 44.) On November 2, 2010, Defendant Hetebrink joined the motion to dismiss. (Doc. 54.)

Defendants’ motion to dismiss has been pending for more than eleven months, and Plaintiff has not filed an opposition. To date, the Court has granted Plaintiff five extensions of time based on the assertion that he is housed in administrative segregation and is unable to access his legal materials. On April 5, 2011, Plaintiff filed a request for a sixth extension of time. (Doc. 63.)

Defendants argue in their motion to dismiss that this action should be dismissed because Plaintiff did not exhaust his administrative remedies with respect to his claims for denial of chapel access and denial of a religious diet. At this juncture, Plaintiff shall be required to file a declaration explaining to the Court which particular legal materials he needs to oppose Defendants’ argument in

1 the motion to dismiss, and the efforts he has made to gain access to those materials since May 17,
2 2010. In the alternative, Plaintiff may file his opposition to the motion to dismiss.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Within thirty days from the date of service of this order, Plaintiff is required to either:
- 5 (1) File a declaration explaining to the Court which particular legal materials he
6 needs to oppose Defendants' motion to dismiss, and the efforts he has made to
7 gain access to those materials since May 17, 2010; or in the alternative,
8 (2) File an opposition to Defendants' motion to dismiss; and
- 9 2. Failure to comply with this order shall result in a recommendation that this action be
10 dismissed for failure to comply with a court order and failure to prosecute.

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12 IT IS SO ORDERED.

13 **Dated: April 7, 2011**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE

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