

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF CALIFORNIA
4

5 ERIC CHARLES RODNEY K'NAPP,

6 Plaintiff,

7 vs.

8 D. G. ADAMS, et al.,

9 Defendants.
10

1:06-cv-01701-LJO-GSA-PC

ORDER REQUESTING CLARIFICATION
FROM DEFENSE COUNSEL WITHIN
FIFTEEN DAYS

11 **I. BACKGROUND**

12 Eric Charles Rodney K'napp ("Plaintiff") is a state prisoner proceeding pro se with this
13 civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
14 commencing this action on November 22, 2006. (Doc. 1.) This action now proceeds on the
15 Second Amended Complaint filed by Plaintiff on November 13, 2008, against defendants
16 Warden Derral G. Adams, Lieutenant ("Lt.") E. Smith, Lt. J. T. Tucker, Associate Warden S.
17 Sherman, and D. Selvy (Classification Services Representative), for retaliating against Plaintiff
18 by confining him in Ad-Seg under false pretenses and transferring him to another prison, and
19 against defendants K. Motty, Sgt. C. Pugliese, Lt. Smith, R. Guerrero, Appeals Coordinator
20 Cooper, Appeals Coordinator V. R. Garcia, Appeals Coordinator R. Hall, and Does 1-5
21 (Mailroom Workers) for interfering with his right to send mail in violation of the First
22 Amendment.¹ (ECF No. 16.)
23

24 ¹On March 12, 2012, Plaintiff's claims for retaliation based on allegations that defendants (1) denied him
25 indigent correspondence supplies, (2) delayed his mail, (3) obstructed his outgoing mail, (4) denied him all but the
26 May 2005 issue of his subscription of Prison Legal News, (5) issued a false disciplinary write-up against Plaintiff
27 for having a clothesline inside his cell, and (6) instructed CDCR personnel at SATF to limit Plaintiff to a sixty-
28 minute non-contact visit with a visitor who had come over 250 miles to see him, were dismissed by the Court
based on Plaintiff's failure to exhaust remedies before filing suit. (Doc. 88.) The Court also dismissed defendants
Meaders, Cuevas, and Johnson from this action, based on Plaintiff's failure to exhaust remedies for the claims
against them before filing suit. (*Id.*) All other claims and defendants, other than those listed above, were
dismissed from this action by the Court on August 17, 2009, based on Plaintiff's failure to state a claim. (Doc.
29.)

1 On October 22, 2014, Defendants filed a motion for summary judgment. (ECF No.
2 136.) On January 15, 2015, Plaintiff filed an opposition to the motion. (ECF No. 147.)
3 Defendants did not file a reply to the opposition. The motion for summary judgment is
4 pending.

5 **II. DISCUSSION**

6 The pending motion for summary judgment was filed by ten of the eleven defendants:
7 Adams, Selvy, Pugliese, Smith, Motty, Tucker, Sherman, Hall, Cooper, and Garcia. (ECF No.
8 136 at 1:21-22.) However, defendant Guerrero was not included in the motion.

9 The court requests clarification, within ten days, whether defendant Guerrero was
10 purposely omitted from the motion for summary judgment.

11 **III. CONCLUSION**

12 Accordingly, IT IS HEREBY ORDERED that within fifteen days from the date of
13 service of this order, defense counsel shall clarify whether defendant Guerrero was purposely
14 omitted from the motion for summary judgment of October 22, 2014.

15 IT IS SO ORDERED.

16 Dated: June 18, 2015

17 /s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE